



भारत का राजपत्र

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नई दिल्ली, शनिवार, भगवत् 14, 1993/श्रावण 23, 1915

NO. 33]

NEW DELHI, SATURDAY, AUGUST 14, 1993/SRAVANA 23, 1915

इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के भवालयों द्वारा जारी किए गए नाविकारिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government
of India (other than the Ministry of Defence)

विधि न्याय और कंपनी कार्य मंत्रालय

(विधि कार्य विभाग)

(न्यायिक प्रभाग)

मूलना

नई दिल्ली, 21 जूनाई, 1993

का.प्रा. 1718—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि मुश्त्री मुलभ्रा भास्वार मुख्य, एडवोकेट ने उक्त प्राधिकारी को उन नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे शिवाजी नगर, पुणे (महाराष्ट्र राज्य) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर विसी भी प्रतार का आदेश इस सूचना के प्रकाशन के चांदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(71)/93-न्यायिक]

पा. सी. कण्णन, सक्षम प्राधिकारी

MINISTRY OF LAW, JUSTICE AND COMPANY
AFFAIRS

Department of Legal Affairs

(Judicial Section)

NOTICE

New Delhi, the 21st July, 1993

S.O. 1718.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Nota-

ries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Smt. Sulbha Bhaskar Gulve, Advocate for appointment as a Notary to practise in Shivaji Nagar, Pune (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(71)/93-Judl.]

P. C KANNAN, Competent Authority

मूलना

नई दिल्ली, 21 जूनाई, 1993

का.प्रा. 1719—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री श्री. नागराजन, एडवोकेट ने उक्त प्राधिकारी को उन नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे यणवन्यापुर, बंगलौर (कनिटिक) राज्य में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आदेश इस सूचना के प्रकाशन के चांदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(66)/93-न्यायिक]

पा. सी. कण्णन, सक्षम प्राधिकारी

(2635)

NOTICE

New Delhi, the 21st July, 1993

S.O. 1719.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. V. Nagarajan, Advocate for appointment as a Notary to practise in Yeshwanthpur, Bangalore (Karnataka).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(66)/93-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 23 जुलाई, 1993

का. आ. 1720.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में तकनीकी व्यवसाय को उक्त नियम के नियम 4 के अधीन एक व्यवसाय करने के लिए नोटरीज के रूप में नियुक्त पर किसी भी प्रकार का प्राक्षेप इस सूचना के प्रकाशन के चौथे दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(76)/93-न्यायिक]

पी. सी. कन्नन, सभाम प्राधिकारी

NOTICE

New Delhi, the 23rd July, 1993

S.O. 1720.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1950 that application has been made to the said Authority, under Rule 4 of the said Rules, by Smt. Minati Adhikari, Advocate for appointment as a Notary to practise in Howrah (West Bengal).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5 (76)/93-Judl.]

P. C. KANNAN, Competent Authority

कार्मिक, लोक शिकायत तथा पेशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

श्रवण

नई दिल्ली, 23 जुलाई, 1993

का.पा. 1721.—केन्द्रीय सरकार एतदुपारा दिल्ली विशेष पुलिस स्थापन प्रधिनियम, 1946 (1946 का प्रधिनियम सं. 25) की व्यापक 5 के साथ पठित व्यापक 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, गह (एस.सी.ए.) विभाग जी.ओ.आर.टी. सं. 1261

तारीख 18-5-93 द्वारा प्राप्त आधिकारी व्यवसाय राज्य सरकार की सहमति से विशेष पुलिस स्थापन के सदस्यों भी शक्तियों और अधिकारियों का नियंत्रण केन्द्रीय प्रब्लेम अमूरों, नई दिल्ली द्वारा रजिस्टर किए गए मामले में अधोध्याय में विद्यावित व्याचिकों को गिराने में अन्तर्वेत्ता अधिकारियत कारसेवकों द्वारा किए गए नीचे उल्लिखित प्रारंभिक अधिनियम के प्रावधानों के अधीन दृढ़नीय अपराधों के प्रब्लेम के लिए संपूर्ण आधिकारी व्यवसाय पर व्यापक है।

प्रारम्भीक और विधि की व्यापारी

प्रधियुक्त का नाम

भारतीय वड संहिता, 1860 (1860 का प्रधिनियम अंग्रेज लालों कार सेवक सं. 45) की व्यापारा 395, 397, 332, 337, 338, 295, 297 और 153A तथा वड विधि संग्रहन विधि-नियम की व्यापारा 7 के अधीन प्रारम्भीक एस.प्रार.सी. 8(एस.)/92-एस.प्रार.सी. 4 और

(ब) ऊपर वर्णित एक या अधिक अपराधों से संबंधित या उनसे संसक्त प्रयत्न, तुष्टेण और व्यव्यंत तथा उन्हीं तथ्यों से उत्पन्न होने वाले वैसे ही संबद्धव्यापार के प्रनुक्तम में किए गए कोई अन्य अपराध।

[संख्या 228/28/93-ए.वी.टी. (11)]

प्रार. एस. बिष्ट, प्रबन्ध सचिव

MINISTRY OF PERSONNEL, P.G. & PENSIONS

(Department of Personnel & Training)

ORDER

New Delhi, the 23rd July, 1993

S. O. 1721.—In exercise of the powers conferred by sub-section (1) of Section 5, read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Andhra Pradesh accorded vide Home (SCA) Department G.O. Rt. No. 1261, dated 18-5-1993 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Andhra Pradesh for investigation of the offences punishable under the provision of relevant Act indicated below alleged to have been committed by the Kar Sevaks involved, in the demolition of disputed structure at Ayodhya in the case registered by the Central Bureau of Investigation, New Delhi.

RC Nos. & Secs. of law Name of the Accused

RC 8(S)/92-SIC. IV Lakhs of unknown Kar Sevaks.
U/s. 395, 397, 332, 337, 338,
295, 297 and 153A of
Indian Penal Code, 1860
(Act No. 45 of 1860).
and Section 7 of the Criminal
Law Amendment Act.

(b) Attempts, abettments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offences committed in the course of same transaction arising out of the same facts.

[No. 228/28/93-AVD-II]

R.S. BISHT, Under Secy.

प्रिय मंत्रालय
(राजस्व विभाग)
नई दिल्ली, 12 मई, 1993
(ग्रामकर)

का.आ. 1722.—ग्रामकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (5) द्वारा प्रदत्त लक्षणों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "श्री रमणाश्रम म., तिरुवन्नामलाई, तमिलनाडु" को कर-निर्धारण वर्ष 1993-94 से 1995-96 तक के लिए निम्नलिखित गतों के अध्यधीन रहते हुए उक्त उपखंड के प्रयोग-मार्य अधिसूचित करती है, ग्रामकर:—

- (1) कर-निर्धारिती इसकी आव का इस्तेमाल अथवा इसकी आव का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अवश्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है।
- (2) कर-निर्धारिती उपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की विस्तीर्णी भी अवधि के दौरान धारा 11 की उप-धारा (5) मे विनिर्दिष्ट किसी एक अथवा एक से प्रधिक दंग अथवा तरीकों से विश्व तरीकों से इसकी निधि (जेयर-जवाहिरात, फर्मी-वर प्रादि के रूप मे प्राप्त सभा रख-रखाव में स्वेच्छिक वंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा।
- (3) यह अधिसूचना किसी ऐसी आव के संबंध में लागू नहीं होगी जो कि कारोबार से प्राप्त लाभ तथा अभिलाम के रूप में ही जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्राप्तिगिक नहीं हो तथा ऐसे कारोबार के संबंध में प्राप्त सेवाकार्य नहीं रखी जाती हो।

[अधिसूचना सं. 9287/फा. सं. 197/72/93-ग्रामकर] (नि.-1)]

ग्रामकर, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 12th May, 1993

(INCOME-TAX)

S.O. 1722.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Ramanasramam, Tiruvannamalai, Tamilnadu" for the purpose of the said sub-clause for the assessment years 1993-94 to 1995-96 subject to the following conditions, namely:

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in anyone or more of the forms or modes specified in sub-section (5) of Section 11;

(iii) this Notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee, and separate books of accounts are maintained in respect of such business.

[Notification No. 9287/F. No. 197/72/93-ITA-I]
SHARAT CHANDRA, Under Secy.

ग्रामकर
नई दिल्ली, 19 जुलाई, 1993

स्टॅम्प

का.आ. 1723.—भारतीय स्टाम्प अधिनियम 1899 (1899 का 2) की धारा 9 की उआवाया (1) के खंड (ख) द्वारा प्रदत्त लक्षणों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा तिरी एंड इंडिस्ट्रियल इक्युलपर्मेंट कार्पोरेशन अफ महाराष्ट्र लि., बम्बई को मात्र सैतीस लाख पचास हजार रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है जो कि उक्त कार्पोरेशन द्वारा जारी किए जाने वाले माल पचास करोड़ रु. के कुल मूल्य के पच्चीस-पच्चीस लाख रु. के अकित मूल्य के बहुत पर्याम के रूप में 1 से 200 तक की विविध संख्या के 1 से 200 तक की क्रम संख्या वाले 200 अंधे पर्याम पर स्टाम्प शुल्क के भारण प्रभाय है।

[सं. 24/93 स्टाम्प/का सं. 33/52/92-वि. क.]
ग्रामकर, अवर सचिव

ORDER

New Delhi, the 19th July, 1993

STAMPS

S.O. 1723.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits City and Industrial Development Corporation of Maharashtra Ltd, Bombay to pay consolidated stamp duty of rupees thirty seven lakh and fifty thousand only, chargeable on account of the stamp duty on 200 bonds bearing serial numbers 1 to 200 bearing distinctive numbers 1 to 200 bonds in the form of debentures of the face value of rupees twenty five lakhs each of the aggregate value of rupees fifty crores only to be issued by the said Corporation.

[No. 24/93-Stamps/F. No. 33/52/92-ST]
ATMA RAM, Under Secy.

केन्द्रीय प्रत्यक्ष करबोर्ड

नई दिल्ली, 16 जुलाई, 1993

ग्रामकर

का.आ. 1724.—ग्राम सूचना के लिए एतद्वारा यह अधिसूचित किया जाता है कि नीचे दिए गए प्रतिष्ठान को केन्द्रीय प्रत्यक्ष करबोर्ड द्वारा इंजीनियरी संबंधी सेवाएं प्रदान

करने के कारोबार को चलाने के प्रयोजनार्थ अनुमोदित किया गया है, जैसाकि आयकर अधिनियम, 1961 को धारा 35डी को उपधारा (2) के खण्ड (ए) के उप खण्ड (iv) में उल्लेख किया गया है।

प्रतिष्ठान

उहदे इण्डिया लिमिटेड,

उहदे हाउस,

एल. बी. एस. मार्ग, विक्रोली (पश्चिम),

बंबई-400083

यह अधिसूचना दिनांक 3-8-1992 से 2-8-1995 तक की अवधि के लिए प्रभावी है।

[का. सं. 203/30/92-आयकर नि.-II/अधिसूचना सं. 9341]

जी. मुथु रामकृष्णन, निदेशक

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 16th July, 1993

INCOME-TAX

S.O. 1724.—It is hereby notified for general information that the concern mentioned below has been approved by the Central Board of Direct Taxes for the purposes of carrying on the business of rendering engineering services as are referred to in sub-clause (iv) of clause (a) of sub-section (2) of Section 35D of Income-tax Act, 1961.

Concern :

Udhe India Limited,

Uhde House,

L.B.S. Marg., Vikhroli (West),

Bombay-400 083.

This Notification is effective for the period from 3-8-1992 to 2-8-1995.

[F. No. 203/30/92-ITA. II/Notification No. 9341]
G. MUTHURAMAKRISHNAN, Director (ITA II)

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

भारत

नई दिल्ली, 9 जुलाई, 1993

का. आ. 1725.—राष्ट्रीय कृषि एवं प्रामोश विकास बैंक अधिनियम, 1981 को धारा 6 की उपधारा (1) के खण्ड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से एतद्वारा निम्न-लिखित शक्तियों को 11 जुलाई, 1993 से तीन वर्ष की अवधि के लिए राष्ट्रीय कृषि एवं प्रामोश विकास बैंक के निदेशक नियुक्त करती है:—

लेकिन, भत्तों को अदायगी उन शतों के प्रधीन की जाएगी। जिनके अंतर्गत ऐसे भत्ते अन्यथा ग्राह्य हों।

[सं. एक. 9/25/93-बी.ओ. I]

एन. एन. मुकर्जी, संयुक्त सचिव

(Department of Economic Affairs)

(Banking Division)

ORDER

New Delhi, the 9th July, 1993

S.O. 1725.—In exercise of the powers conferred by sub-clause (1A) of Clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby terminate the term of office of Shri M. Gopalakrishnaiah, Executive Director, Bank of Maharashtra with effect from the date of service of this notice on him and direct that he shall be paid a sum equivalent to the amount of his salary and admissible allowances for a period of three months in lieu of the period of notice. The payment of allowances will, however, be subject to the conditions in which such allowances are otherwise admissible.

[F. No. 9/25/93-B.O.I]

N. N. MOOKERJEE, Jr. Secy.

नई दिल्ली, 9 जुलाई, 1993

का. आ. 1726.—राष्ट्रीय कृषि एवं प्रामोश विकास बैंक अधिनियम, 1981 को धारा 6 की उपधारा (1) के खण्ड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से एतद्वारा निम्न-लिखित शक्तियों को 11 जुलाई, 1993 से तीन वर्ष की अवधि के लिए राष्ट्रीय कृषि एवं प्रामोश विकास बैंक के निदेशक नियुक्त करती है:—

1. कृषि उत्पादन आयुक्त के स्थान पर	सचिव (कृषि)
राजस्थान सरकार	महाराष्ट्र सरकार,
जयपुर।	बम्बई।
2. कृषि उत्पादन आयुक्त के स्थान पर	कृषि उत्पादन
पश्चिम बंगाल सरकार	आयुक्त मध्य प्रदेश
फलकता	सरकार भोपाल।

[संख्या एक. 7/12/93-बी.ओ. I]

एम. एस. सीतारामन, भवर सचिव

New Delhi, the 9th July, 1993

S.O. 1726.—In exercise of the powers conferred by clause (f) of sub-section (1) of section 6 of the National Bank for Agriculture and Rural Development Act, 1981, the Central Government, in consultation with the Reserve Bank of India, hereby appoints the following persons to be the Directors of the National Bank for Agriculture and Rural Development for a period of three years with effect from the 11th July, 1993:—

1. Secretary (Agriculture) Government of Maharashtra, Bombay.	Vice	The Agriculture Production Commissioner, Government of Rajasthan, Jaipur.
2. The Agriculture Production Commissioner, Government of Madhya Pradesh, Bhopal.	Vice	The Agriculture Production, Government of West Bengal, Calcutta

[F. No. 7/12/93-B.O.I]
M. S. SEETHARAMAN, Under Secy.

नई दिल्ली, 22 जुलाई, 1993

का. आ. 1727.—भारतीय औद्योगिक पुनर्निर्माण बैंक अधिनियम, 1984 (1984 का 62) को धारा 10 की उपधारा (1) के खण्ड (घ) के उपब्लॅण्ड (1) के अनुसरण में केन्द्रीय सरकार, एतद्वारा श्री दिनेश चन्द्र, संयुक्त सचिव, वित्त मंत्रालय, आर्थिक कार्य विभाग, बैंकिंग प्रभाग, नई दिल्ली को डॉ. पी. जे. नायक के स्थान पर भारतीय औद्योगिक पुनर्निर्माण बैंक के निदेशक के रूप में नामित करती है।

[सं. एफ. 9/41/91-बी. ओ. I]
एम. एस. सीतारामन, अवर सचिव

New Delhi, the 22nd July, 1993

S.O. 1727.—In pursuance of sub-clause (i) of clause (d) of sub-section (1) of Section 10 of the Industrial Reconstruction Bank of India Act, 1984 (62 of 1984) the Central Government hereby nominates Shri Dinesh Chandra, Joint Secretary, Ministry of Finance, Department of Economic Affairs, Banking Division, New Delhi, as a Director of the Industrial Reconstruction Bank of India vice Dr. P. J. Nayak.

[F. No. 9/41/91-B.O.I]
M. S. SEETHARAMAN, Under Secy.

नई दिल्ली, 23 जुलाई, 1993

का. आ. 1728.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकोर्ज उपबंध) स्कीम, 1980 के खण्ड 3 के उपब्लॅण्ड (ज) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा, श्री के. जा. गोप्यल, निदेशक, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग), नई दिल्ली को श्रीमती गौरी कुमार के स्थान पर विभाग बैंक का निदेशक नियुक्त करती है।

[सं. एफ. 9/41/91-बी. ओ. -I]
एम. एस. सीतारामन, अवर सचिव

New Delhi, the 23rd July, 1993

S.O. 1728.—In pursuance of sub-clause (h) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central

Government hereby appoints Shri K. G. Goel, Director, Ministry of Finance, Department of Economic Affairs, Banking Division, New Delhi as a Director of Vijaya Bank vice Smt. Gauri Kumar.

[F. No. 9/41/91-B.O.I]
M. S. SEETHARAMAN, Under Secy.

नई दिल्ली, 22 जुलाई, 1993

का. आ. 1729.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 9 के उपबंध, अधिसूचना को तारीख से दो वर्षों की अवधि के लिए ग्राम चम्मानाद, कन्नायुनाडु ताल्लुक, जिला एरनाकुलम में सर्वेक्षण सं. 601/1A/2/3, 602/2/2/7 और 597/1/2/5 के अंतर्गत 1.93 एकड़ अचल संपत्ति के संबंध में साउथ इंडियन बैंक पर लागू नहीं होंगे।

[सं. 15/6/93-बी. ओ. ए.]
के. के. मंगल, अवर सचिव

New Delhi, the 22nd July, 1993

S.O. 1729.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India hereby declares that the provisions of Section 9 of the said Act shall not apply to South Indian Bank Ltd. in respect of the immovable property at Chemmanad Village, Kunnathunadu Thaluk, Ernakulam District consisting of 1.93 acres under Survey No. 601/1A/2/3, 602/2/2/7 and 597/1/2/5 for a period of two years from the date of notification.

[No. 15/6/93-BOA]
K. K. MANGAL, Under Secy.

नई दिल्ली, 26 जुलाई, 1993

का. आ. 1730.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के उपबंध युनाइटेड बैंक आफ इंडिया, कलकत्ता पर 11 मार्च, 1995 तक उस सीमा तक लागू नहीं होंगे जहां तक उनका सम्बन्ध गिरवीदार के रूप में मैसर्स एकमें इलेक्ट्रो इंडस्ट्रीज प्रा. लि. की 30 प्रतिशत से अधिक की प्रदत्त औंगर पूँजी की उसकी धारिता से है।

[सं. 15/2/91-बी. ओ. III (ii)]
के. के. मंगल, अवर सचिव

New Delhi, the 26th July, 1993

S.O. 1730.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (2) of section 19 of the said Act shall not apply to United Bank of India, Calcutta for a further period upto 11th March, 1995 in respect of its holding of shares in excess of 30% of the paid up share capital of M/s. Acme Electro Industries Private Limited, as pledgee.

[No. 15/2/91-B.O.III (ii)]

K. K. MANGAL, Under Secy.

नई दिल्ली, 26 जुलाई, 1993

का. प्रा. 1731.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, घोषणा करती है कि उक्त अधिनियम की धारा 10 (ब्र) की उपधारा (9) के उपर्यंथ, कर्नाटक बैंक लि., पर 11 मई, 1993 से 10 अगस्त, 1993 तक तीन महीने की अवधि या उक्त बैंक के लिये नियमित अध्यक्ष और मुख्य कार्यपालक अधिकारी की नियुक्ति होने तक, इस में से जो भी पहले हो उस सीमा तक लागू नहीं होंगे जहाँ तक, बैंक को 4 महीने से अधिक के लिये अध्यक्ष का कार्य करने के लिए व्यवस्था करने की छूट है।

[सं. 15/5/93-बी.ओ. ए. (ii)]

के. के. मंगल, अवर सचिव

New Delhi, the 26th July, 1993

S.O. 1731.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendations of the Reserve Bank of India, hereby declares that the provisions of sub-section (9) of Section 10B of the said Act to the extent they preclude a bank from making arrangement for performance of duties of Chairman beyond a period of four months, shall not apply to the Karnataka Bank Ltd., for a period of three months from 11th May, 1993 to 10th August, 1993 or till the appointment of a regular Chairman and Chief Executive Officer for that bank whichever is earlier.

[No. 15/5/93-BOA (ii)]

K. K. MANGAL, Under Secy.

नई दिल्ली, 26 जुलाई, 1993

का. प्रा. 1732.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक

बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 19 (2) के उपर्यंथ, युनाइटेड बैंक आफ इंडिया पर अधिसूचना की तारीख से दो वर्षों की अवधि के लिए उस सीमा तक लागू नहीं होंगे जहाँ तक उनका संबंध गिरवीवार के रूप में मैसर्स एस्काल इण्डिया प्रा. लि. कलकत्ता के पूँजी की उसकी धारिता में है।

[सं. 15/16/91-बी.ओ. ए.]

के. के. मंगल, अवर सचिव

New Delhi, the 26th July, 1993

S.O. 1732.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949, (10 of 1949), the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of Section 19(2) of the said Act shall not apply to United Bank of India for a period of two years from the date of notification in so far as they relate to its holding shares in M/s. Escal India Pvt. Ltd., Calcutta as pledgee.

[No. 15/16/91-BOA]

K. K. MANGAL, Under Secy.

नई दिल्ली, 27 जुलाई, 1993

का. प्रा. 1733.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत के राजपत्र के भाग II खण्ड 3 (ii) में प्रकाशित दिनांक 20 नवम्बर, 1991 की अधिसूचना सं. 15/12/91-बी.ओ. III में आंशिक आशोधन करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10 की उपधारा (1) (ग) (1) के उपर्यंथ श्री बी.एम. मेकेन्स, भारत के मुख्य कार्यपालक अधिकारी, ए.एन. जैड. ग्रिंडलेज बैंक लि., पी.एल. सी. पर इसांडा फाइनेंस एण्ड लीजिंग लि. के बोर्ड में उनकी नियुक्ति पर लागू नहीं होंगी।

[सं. 15/12/91-बी.ओ. ए.]

के. के. मंगल, अवर सचिव

New Delhi, the 27th July, 1993

S.O. 1733.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949) and in partial modification of Notification No. 15/12/91-B.O.III dated 20th November, 1991 published in Part II, Section 3(ii) of the Gazette of India, the Government of India, on the recommendation of the Reserve Bank of India, hereby declare that the provisions of sub-section (i) (c) (i) of Section 10 of the said Act shall not apply to Shri B.M. Mc Cance, Chief Executive Officer in India, ANZ Grindlays Bank Ltd. p.l.c. for his appointment on the Board of Esanda Finance & Leasing Ltd.

[No. 15/12/91-BOA]

K. K. MANGAL, Under Secy.

केन्द्रीय उत्पाद शुल्क समाहतालिय
पौर्ण बाबूप नं. 81
अधिसूचना संख्या 04/93
नागपुर, 21 जुलाई, 1993

का. आ. 1734.—श्री पी. थी. ठाकरे, लेखा अधिकारी, केन्द्रीय उत्पाद शुल्क समूह “क” समाहतालिय नागपुर निर्वतन की आयु प्राप्त करने पर दिनांक 30-06-1993 को अपराह्न से शासकीय सेवा से निवृत्त हुए हैं।

[प. स. II(3)/6/91 स्थापना—I/15415]
हरजिंदर सिंह, उप समाहता (कार्मिक एवं सतर्कता)

CENTRAL EXCISE COLLECTORATE, POST
BOX NO. 81

NOTIFICATION NO. 04/1993

Nagpur, the 21st July, 1993

S.O. 1734.—Shri P. V. Thakare, Chief Accounts Officer, Central Excise Group 'A' of Nagpur Collectorate having attained the age of Superannuation retired from Government service on 30-06-1993 in the Afternoon.

[G. No. II(3)/6/91-Estt. I/15415]

HARJINDER SINGH, Deputy Collector
(Per. and Vig.)

वाणिज्य मंत्रालय
(विवेश व्यापार महानिदेशालय)
आदेश

नई दिल्ली, 26 जुलाई, 1993

का. आ. 1735 :—मैसर्स एसवरा मिल्स अहमदाबाद को ई पी सी जी स्कीम के अन्तर्गत संलग्न सूची के अनुसार पंजीयन माल के आयात के लिए (तीन करोड़ बयासी साख चवहतर हजार एक सौ बारह) 3,82,74,112 रुपये का लाइसेंस सं. पी/सी जी/2129228 दिनांक 11-3-92 को प्रदान किया गया था।

फर्म ने उपर्युक्त लाइसेंस की सीमाशुल्क प्रयोजन की अनुलिपि प्रति के लिए इस आधार पर आवेदन किया है कि लाइसेंस की मूल सीमाशुल्क प्रयोजन प्रति गुम अथवा खो गई है। इसके बागे यह भी उल्लेख किया गया है कि लाइसेंस की सीमाशुल्क प्रयोजन प्रति फस्टम हाउस बम्बई के साथ पंजीकृत थी और इसकी रु 2,48,23,378 की राशि का उपयोग किया जा चुका है और शेष रुपये 1,34,50,744 का उपयोग किया जाना है।

2. इपने तर्फ के समर्थन में लाइसेंसधारी ने स्टाम्प पेपर पर विधिवत रूप से नोटरी पब्लिक अहमदाबाद के समक्ष शपथ लेकर हलफनामा दायर किया है। तबुसार में इस बात से सन्तुष्ट हूँ कि आयात लाइसेंस सं. पी/सी जी/2129228 दिनांक 11-3-92 की मूल सीमाशुल्क प्रति फर्म द्वारा गुम अथवा खो गई है। यथासंशोधित आयात (नियंत्रण)

प्रावेश, 1955 दिनांक 7-2-1955 की उपधारा 9 (ग) के अन्तर्गत प्रदत्त अधिकारों का प्रयोग करते हुए मैसर्स एसवरा मिल्स, अहमदाबाद को जारी उक्त सीमाशुल्क प्रयोजन प्रति सं. पी/सी जी 2129228 दिनांक 11-3-92 को एतद्वारा रद्द की जाती है।

3. उक्त लाइसेंस की सीमाशुल्क प्रयोजन की अनुलिपि प्रति पार्टी को ग्रलग से जारी की जा रही है।

[सं. 18/ए० एम०—91/395/ई पी सी जी—2/392]

माया डे. केम, उप महानिदेशक, विदेश व्यापार

MINISTRY OF COMMERCE

(Office of the Director General of Foreign Trade)

ORDER

New Delhi, the 26th July, 1993

S.O. 1735.—M/s. Aswara Mills, Ahmedabad were granted an import licence No. P/CG/2129228 dated 11-3-92 for Rs. 3,82,74,112 (Three crore eighty two lakhs seventy four thousand one hundred and twelve only) import of CG as per list enclosed under EPCG Scheme.

The firm has applied for issue of duplicate copy of Custom purpose of the above mentioned licence on the ground that the original Custom purpose copy of the licence has been lost or misplaced. It has further been stated that the Custom purpose copy of the licence was registered with Customs House, Bombay and has been utilised for a sum of Rs. 2,48,23,378 leaving an unutilised balance of Rs. 1,34,50,744.

2. In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public Ahmedabad. I am accordingly satisfied that the original Custom purpose copy of Import licence No. P/CG/2129228, dt. 11-3-92 has been lost or misplaced by the firm. In exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dt. 7-12-1955 as amended the said original Custom purpose copy of the licence No. P/CG/2129228, dated 11-3-1992 issued to M/s. Aswara Mills, Ahmedabad is hereby cancelled.

3. A duplicate Custom purpose copy of the said licence is being issued to the party separately.

[F. No. 18/AM-91/395/EPCG-II/392]

MAYA D. KEM, Dy. Chief Controller
of Import & Export

वस्त्र मंत्रालय

नई दिल्ली, 21 जुलाई, 1993

का० आ० 1736.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में वस्त्र मंत्रालय के अन्तर्गत आने वाले निम्नलिखित कार्यालय को, जिसमें 80% कर्मचारी-

बृन्द ने हिंदी का कार्य साधक ज्ञान प्राप्त कर लिया है, प्रधि-
सूचित करती है:—

विपणन एवं सेवावित्तार केन्द्र, विकास आयुक्त (इस्टर्निल्प)
कार्यालय, 6618-भारावास गेट, रिवाड़ी-123401
(हरियाणा)

[सं. ई-11011/2/93-हिंदी]
कौति कुमार, उप सचिव

MINISTRY OF TEXTILES

New Delhi, the 21st July, 1993

S.O. 1736.—In pursuance of Sub-Rule 4 of Rule
10 of the Official Language (Use for Official Purposes)

of the Union), Rule, 1976 the Central Government
hereby notifies the following office under the Ministry
of Textiles whereof more than 80 per cent staff have
acquired working knowledge of Hindi:—

Marketing & Service Extension Centre, Office of
the Development Commissioner (Handi-
crafts), 6618, Bharawas Gate, Rewari-
123401 (Haryana).

[No. E-11011/2/93-Hindi]

KIRTHY KUMAR, Dy. Secy.

कोयला मंदालय

नई दिल्ली, 12 जुलाई, 1993

का.आ. 1737.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) के अधीन भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 2 नवम्बर, 1991 में प्रकाशित भारत सरकार के उर्जा मंदालय (कोयला विभाग) की अधिसूचना का.आ.सं. 2756, तारीख 10 अक्टूबर, 1991 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 3,088.97 एकड़ (लगभग) या 1,250.60 हेक्टर (लगभग) है, कोयले का पूर्वोक्त करने के अपने आशय की सूचना दी थी :

और केन्द्रीय सरकार का यह समाधान हो गया है कि उक्त भूमि के भाग में कोयला अभिप्राप्त है।

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उससे संलग्न अनुसूची में वर्णित 766.45 एकड़ (लगभग) या 310.30 हेक्टर (लगभग) माप की भूमि के एक भाग का अर्जन करने के अपने आशय की सूचना देती है।

टिप्पण 1 : इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक सं. एच.सी.पी./मीजा 2/ तारीख 14 दिसम्बर, 1992 का निरीक्षण उपायुक्त गोड़ड़ा (विहार) के कार्यालय में या कोयला नियंत्रक, काउंसिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में या प्रभारी निदेशक (पश्चिम प्रभाग), हस्टर्न कोलकाता निमिट्टे, शैकंदोरिया, डाकघर दिशेशगढ़ जिला बर्द्दवान (पश्चिम बंगाल) के कार्यालय में किया जा सकता है।

टिप्पण 2 : कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध है:

8. अर्जन के प्रति आपत्ति—

(1) कोई अधिकत जो किसी भूमि में जिसकी वावन धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारी का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

स्पष्टीकरण—इस धारा के अर्थात् यह आपत्ति नहीं मानी जाएगी कि कोई अधिकत जिसी भूमि में कोयला उत्पादन के लिए स्वयं संकियाएं करना चाहता है और ऐसी संकियाएं केन्द्रीय सरकार या किसी शान्य व्यक्ति को नहीं करनी चाहिए।

(2) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम प्राधिकारी आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जांच, यदि कोई हो, करने के पश्चात् जो वह आवश्यक समझता है वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के सम्बन्ध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के गम्भीर में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह अधिकत किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में द्वितीय का दावा करने का हकदार होता यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार संपत्ति के अधीन अर्जित कर लिए जाते हैं।

टिप्पणी 3 : केन्द्रीय सरकार ने कोथला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता को उक्त अधिनियम के अधीन सशम प्राधिकारी नियुक्त किया है।

अनुमति

स्लाक—1

राजमहल क्षेत्र की हुरा 'ग', निवृत्त परियोजना

रेखांक सं. एच सी पी/मौजा/2

तारीख 14 दिसम्बर, 1992

(अर्जित की जाने वाली भूमि को दर्शते हुए)

समस्त अधिकार

क्रम सं.	मौजा का नाम (ग्राम)	थाना सं.	पुनिम स्टेशन	ज़िला	क्षेत्र एकड़ में	टिप्पणियां
1.	पहाड़पुर	32	बीड़ब्ल्यू सिमरा-I	गोड़डा	177. 37	भाग
2.	डुमरिया	1	बीड़ब्ल्यू सिमरा-II	गोड़डा	15. 32	भाग
3.	हाहाजोर	13	बीड़ब्ल्यू सिमरा-II	गोड़डा	112. 10	भाग
4.	पचरुखी	14	बीयब्ल्यू सिमरा-II	गोड़डा	74. 61	भाग
5.	रंगमटिया	15	बीड़ब्ल्यू सिमरा-II	गोड़डा	130. 75	भाग
6.	छोटा खैरवानी	16	बीड़ब्ल्यू सिमरा-II	गोड़डा	256. 30	भाग
कुल					766. 45 एकड़ (लगभग)	
या					310. 30 हेक्टर	
(लगभग)						

1. मौजा पहाड़पुर में अर्जित किए जाने वाले प्लाट संख्यांक

14 (भाग), 16,

2. मौजा डुमरिया में अर्जित किए जाने वाले प्लाट संख्यांक

732 (भाग), 1178 (भाग), 1190, 1227 (भाग),

3. मौजा हाहाजोर में अर्जित किए जाने वाले प्लाट संख्यांक

1 से 12, 13 (भाग), 14, 15, 16 (भाग), 17, 19 से 29, 39 में 59, 60 (भाग), 64 (भाग), 73 (भाग), 147 से 264, 310

4. मौजा पचरुखी में अर्जित किए जाने वाले प्लाट संख्यांक

127, 141, 249, 280 से 282, से 289 से 291, 298, 302, 306, 319 से 341

5. मौजा रंगमटिया में अर्जित किए जाने वाले प्लाट संख्यांक

1 से 26

6. मौजा छोटा खैरवानी में अर्जित किए जाने वाले प्लाट संख्यांक

1 (भाग), 2 से 28, 29 (भाग), 30 (भाग), 58 से 68

सीमा वर्णन

क 1—क 2 रेखा मौजा पहाड़पुर के प्लाट सं. 14 से आरम्भ होती है, प्लाट सं. 32 उसी प्लाट से गुजरती है और जैसा कि रेखांक पर अंकित है “क 2” बिन्दु पर मिलती है।

क 2—क 3 रेखा मौजा पहाड़पुर सं. 32 के प्लाट सं. 14 से गुजरती है और जैसा कि रेखांक पर अंकित है “क 3” पर मिलती है।

क 3—क 4 रेखा मौजा पहाड़पुर मं. 32 और छोटा खैरखानी सं. 16 की संयुक्त सीमा के साथ-साथ चलती है और मौजा छोटा खैरखानी के प्लाट सं. 29 से होकर गुजरती है। प्लाट सं. 29 की दक्षिण लाइन से होकर चलती है प्लाट सं. 30 की पश्चिम लाइन से चलती है और प्लाट सं. 34, 47 से होकर गुजरती है और जैसा कि रेखांक पर अंकित है “क 4” पर मिलता है।

क 4—क 5 रेखा मौजा छोटा खैरखानी सं. 16 और पियाराम सं. 34 की संयुक्त सीमा लाइन के साथ-साथ चलती है और मौजा छोटा खैरखानी सं. 16, पियाराम सं. 34 और रंगमटिया सं. 15 जैसा कि रेखांक पर अंकित है तीनों की सीमा रेखा पर “क 5” बिन्दु पर मिलती है।

क 5—क 6 रेखा मौजा हाहाजोर सं. 13 की संयुक्त सीमा रेखा के साथ-साथ चलती है और जैसा कि रेखांक पर अंकित है “क 6” पर मिलती है।

क 6—क 7—क 8 रेखा मौजा हाहाजोर सं. 13 के प्लाट सं. 74 के उत्तर और पश्चिम के साथ-साथ चलती है और जैसा कि रेखांक पर अंकित है “क 8” बिन्दु पर मिलती है।

क 8—क 9 रेखा मौजा हाहाजोर के प्लाट सं. 74 की पश्चिम रेखा के साथ-साथ चलती है और जैसा कि रेखांक पर अंकित है “क 9” बिन्दु पर मिलती है।

क 9—क 10 रेखा मौजा हाहाजोर के प्लाट सं. 74 के उत्तर के साथ-साथ चलती है प्लाट सं. 60, 64 से होकर गुजरती है और जैसा कि रेखांक पर अंकित है “क 10” बिन्दु पर मिलती है।

क 10—क 11 रेखा प्लाट सं. 66 की दक्षिण रेखा, प्लाट सं. 56 की उत्तर और पश्चिम रेखा, प्लाट सं. 73 की पूर्व और दक्षिण रेखा से होकर गुजरती है और जैसा कि रेखांक पर अंकित है “क 11” बिन्दु पर मिलती है।

क 11—क 12 रेखा मौजा हाहाजोर सं. 13 के प्लाट सं. 73 की पूर्व और उत्तर रेखा के साथ-साथ चलती है और प्लाट सं. 73, 16, 13 से होकर गुजरती है और मौजा रंगमटिया सं. 15 तथा हाहाजोर सं. 13 की संयुक्त सीमा रेखा के साथ-साथ चलती है और जैसा कि रेखांक पर अंकित है “क 12” बिन्दु पर मिलती है।

क 12—क 13 रेखा मौजा हाहाजोर सं. 13 के प्लाट सं. 73 की पश्चिम रेखा के साथ-साथ चलती है जैसा कि रेखांक पर अंकित है “क 13” बिन्दु पर मिलती है।

क 13—क 14 रेखा मौजा हाहाजोर सं. 13 के प्लाट सं. 73 की उत्तर रेखा के साथ-साथ चलती है। मौजा हाहाजोर सं. 13 और मौजा डुमरिया सं. 1 की संयुक्त सीमा रेखा के साथ-साथ चलती है मौजा डुमरिया सं. 1 के प्लाट सं. 1227 की उत्तर रेखा से होकर गुजरती है और जैसा कि रेखांक पर अंकित है “क 14” बिन्दु पर मिलती है।

क 14—क 15 रेखा मौजा डुमरिया सं. 1 के प्लाट सं. 1227 से होकर गुजरती है और जैसा कि रेखांक पर अंकित है “क 15” बिन्दु पर मिलती है।

क 15—क 16—क 17 रेखा मौजा डुमरिया सं. 1 के प्लाट सं. 1191 की उत्तर रेखा से होकर गुजरती है। प्लाट सं. 1192, 1193 की उत्तर-पश्चिम रेखा के साथ-साथ चलती है। प्लाट सं. 1196, 1197 की पश्चिम रेखा से गुजरती है। प्लाट सं. 1199, 1200, 1201, 1202, 1203, 1106, 1107 की पश्चिम रेखा से होकर गुजरती है। प्लाट सं. 1109 से होकर गुजरती है प्लाट सं. 732 की रेखा से होकर गुजरती है। प्लाट सं. 1147 की पूर्व रेखा के साथ-साथ चलती है। प्लाट सं. 1148 की दक्षिण और पूर्व रेखा के साथ-साथ चलती है और जैसा कि रेखांक पर अंकित है “क 17” बिन्दु पर मिलती है।

क 17—क 18 रेखा मौजा डुमरिया सं. 1 के प्लाट सं. 1178 से होकर गुजरती है और जैसा कि रेखांक पर अंकित है क—18 बिन्दु पर मिलती है।

क 18—क 19 रेखा मौजा डुमरिया सं. 1 और पचलखी सं. 14 की संयुक्त सीमा रेखा के साथ-साथ चलती है, मौजा पचलखी सं. 14 के प्लाट सं. 282 की पश्चिम ओर दक्षिण रेखा से होकर गुजरती है और जैसा कि रेखांक पर अंकित है क 19 बिन्दु पर मिलती है।

क 19—क 20 रेखा मौजा पचलखी सं. 14 के प्लाट सं. 282 के पश्चिम के साथ-साथ चलती है और प्लाट सं. 282 की उत्तर ओर पश्चिम रेखा से होकर गुजरती है और जैसा कि रेखांक पर अंकित है क 20 बिन्दु पर मिलती है।

क 20—क 21—क 22 रेखा मौजा पचलखी के प्लाट सं. 282 की पूर्व और उत्तर रेखा के साथ-साथ चलती है, प्लाट सं. 326 की पश्चिम ओर उत्तर रेखा से होकर गुजरती है और जैसा कि रेखांक पर अंकित है क 22 बिन्दु पर मिलती है।

क 22—क 23 रेखा मौजा पचलखी सं. 14 और पहाड़पुर सं. 32 की संयुक्त सीमा रेखा के साथ-साथ चलती है, मौजा पचलखी के प्लाट सं. 316 की उत्तर रेखा से होकर गुजरती है प्लाट सं. 308, 307, 305 की पूर्व और उत्तर रेखा के साथ-साथ चलती है, प्लाट सं. 303, 304 की रेखा से होकर गुजरती है, प्लाट सं. 299 की पूर्व रेखा से होकर गुजरती है, प्लाट सं. 301 की दक्षिण पूर्व और उत्तर रेखा से होकर गुजरती है, प्लाट सं. 300 की उत्तर रेखा के साथ-साथ चलती है और जैसा कि रेखांक पर अंकित है “क 23” बिन्दु पर मिलती है।

क 23—क 24—क 25 रेखा मौजा पचलखी के प्लाट सं. 300, 299, 304, 297 की पश्चिम रेखा के साथ-साथ चलती है, प्लाट सं. 296, 295 के उत्तर से होकर गुजरती है, प्लाट सं. 264, 261 की पश्चिम रेखा से होकर गुजरती है, प्लाट सं. 256 की पश्चिम ओर उत्तर रेखा के साथ-साथ चलती है, प्लाट सं. 255, 250 की पश्चिम रेखा के साथ-साथ चलती है और जैसा कि रेखांक पर अंकित है “क 25” बिन्दु पर मिलती है।

क 25—क 26 रेखा मौजा पहाड़पुर सं. 32 पचलखी सं. 14 की संयुक्त सीमा रेखा के साथ-साथ चलती है, मौजा पचलखी सं. 14 के प्लाट सं. 250, 248, 143 की उत्तर रेखा के साथ-साथ चलती है, प्लाट सं. 142 की पूर्व और उत्तर रेखा से होकर गुजरती है, प्लाट सं. 140 की पूर्व रेखा से होकर गुजरती है, प्लाट सं. 135 की पूर्व और उत्तर रेखा से होकर गुजरती है, प्लाट सं. 134 की उत्तर और पश्चिम रेखा प्लाट सं. 133 की पश्चिम रेखा, प्लाट सं. 128 की उत्तर रेखा से होकर गुजरती है, प्लाट सं. 121 की पूर्व, उत्तर और पश्चिम के साथ-साथ प्लाट सं. 123 की पूर्व रेखा, प्लाट सं. 124 की पूर्व, उत्तर और पश्चिम रेखा के साथ-साथ प्लाट सं. 125, 126 की पूर्व रेखा के साथ-साथ चलती है और जैसा कि रेखांक पर अंकित है “क 26” बिन्दु पर मिलती है।

क 26—क 1 रेखा मौजा पहाड़पुर सं. 32 के प्लाट सं. 14 से होकर गुजरती है और जैसा रेखांक पर अंकित है क 1 के आरम्भ बिन्दु पर मिलती है।

[सं. 43015/5/91—एल एस डब्ल्यू]

बी. बी. राव, अवर सचिव

MINISTRY OF COAL

Now Delhi, the 12th July, 1993

S.O. 1737.—Whereas by the notification of the Government of India in the then Ministry of Energy (Department of Coal) number S.O. 2756, dated the 10th October, 1991, published in the Gazette of India, Part-II, Section 3, Sub-Section, (ii), dated the 2nd November, 1991, under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government gave notice of its intention to prospect for coal in 3,088.97 acres (approximately) or 1,250.60 hectares (approximately) of lands in the locality specified in the Schedule annexed to that notification;

And whereas the Central Government is satisfied that coal is obtainable in a part of the said lands;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire a part of the said lands measuring 766.45 acres (approximately) or 310.30 hectares (approximately) described in the Schedule annexed hereto;

Note 1. The plan bearing No. HCP/MOUZA/2 dated the 14th December, 1992 of the area covered by this notification may be inspected in the office of the Deputy Commissioner, Godda (Bihar) or in the office of the Coal Controller, 1, Council House Street, Calcutta or in the office of the Director in Charge (West Division) Eastern Coalfields Limited, Sanctoria, Post Office : Dishorgarh, District Burdwan (West Bengal).

Note 2.—Attention is hereby invited to the provisions of section 8 of the said Act, which provision as follows :
Objections to acquisition:

“8. (1) Any person interested in any land in respect of which a notification under section 7 has been issued may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation.—It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity or being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further enquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.”

Note 3.—The Coal Controller, 1, Council House Street, Calcutta has been appointed by the Central Government as the competent authority under the said Act.

SCHEDULE

BLOCK-I

HURRA 'C' OPENCAST PROJECT OF RAJMAHAL AREA

Drawing No. HCP/MOUZA/2
dated the 14th December, 1992.
(showing lands to be acquired)

All Rights

Serial Name of Mouza number (village)	Thana number	Police Station (Thana)	District	Area in acres	Remarks
1. Paharpur	32	BW Simra-I	Godda	177.37	Part
2. Dumaria	1	BW Simra-II	Godda	15.32	Part
3. Hahajore	13	BW Simra-II	Godda	112.10	Part
4. Pachrukhi	14	BW Simra-II	Godda	74.61	Part
5. Rangamati	15	BW Simra-II	Godda	130.75	Part
6. Chota Khairbani	16	BW Simra-II	Godda	256.30	Part
Total :				766.45 acres (approximately) or 310.30 hectares (approximately)	

1. Plot numbers to be acquired in Mouza Paharpur : 14 (part), 16
2. Plot numbers to be acquired in Mouza Dumaria : 732 (part), 1178 (part), 1190, 1227 (part).
3. Plot numbers to be acquired in Mouza Hahajore : 1 to 12, 12 (part), 14, 15, 16 (part), 17, 19 to 29, 39 to 59, 60 (part), 64 (part), 73 (part), 147 to 264, 310.
4. Plot Numbers to be acquired in Mouza Pachrukhi : 127, 141, 249, 280 to 282 289-291, 298, 302, 306, 319 to 341.

5. Plot numbers to be acquired in Mouza Rangamatia : 1 to 33.
 6. Plot numbers to be acquired in Mouza Chhota Khairbani : 1 (part), 2 to 28, 29 (part), 30 (part), 47 (part,) 58 to 68.

BOUNDARY DESCRIPTION

A1—A2 Line starts from plot number 14 of mouza Paharpur number 32, passes through the same plot and meets at point A2 as delineated on the plan.

A2—A3 Line passes through plot number 14 of mouza Paharpur number 32 and meets at point A3 as delineated on the plan.

A3—A4 Line passes along with joint boundary line of mouza Paharpur number 32 and Chhota Khairbani number 16 and passes through line of plot numbers 1, 29 of mouza Chhota Khairbani, south line of plot number 29, west line of plot number 30 and passes through plot numbers 30, 47 and meets at point A4 as delineated on the plan.

A4—A5 Line passes along with joint boundary line of mouza Chhota Khairbani number 16 and Piyaram number 34 and meets at point A5 on trio boundary line of mouza Chhota Khairbani number 16, Piyaram number 34 and Rangamatia number 15 as delineated on the plan.

A5—A6 Line passes along with joint boundary line of mouza Rangamatia number 15 and Hahajore number 13 and meets at point A6 as delineated on the plan.

A6—A7—A8 Line passes along with north and west of plot number 74 of mouza Hahajore number 13 and meets at point A8 as delineated on the plan.

A8—A9 Line passes along with west line of plot number 74 of mouza Hahajore number 13 and meets at point A9 as delineated on the plan.

A9—A10 Line passes along with north of plot number 74 and passes through plot numbers 60, 64 of mouza Hahajore and meets at point A10 as delineated on the plan.

A10—A11 Line passes through south line of plot number 66, north and west line of plot number 56, east and south line of plot number 73 and meets at point A 11 as delineated on the plan.

A11—A12 Line passes along with east and north line of plot number 73 of mouza Hahajore number 13 and passes through plot numbers 73, 16, 13, passes along with the joint boundary line of mouza Rangamatia number 15 and Hahajore number 13 and meets at point A12 as delineated on the plan.

A12—A13 Line passes along with west line of plot number 73 of mouza Hahajore number 13 and meets at point A13 as delineated on the plan.

A13—A14 Line passes along with north line of plot number 73 of mouza Hahajore number 13, passes along with joint boundary line of mouza Hahajore number 13 and mouza Dumaria number, 1, passes through north line of plot number 1227 of mouza Dumaria number 1 and meets at point A14 as delineated on the plan.

A14—A15 Line passes through plot number 1227 of mouza Dumaria number 1 and meets at point A15 as delineated on the plan.

A15—A16—A17 Line passes through north line of plot number 1191 of mouza Dumaria number 1, passes along with the north and west line of plot numbers 1192, 1193, passes west line of plot numbers 1196, 1197, north of plot number 1199, 1200, 1201, 1202, 1203, 1106, 1107, east of plot number 1109, passes through line of plot number 732 along with east of the plot number 1147, south and east line of plot number 1148 and meets at point A17, as delineated on the plan.

A17—A18 Line passes through plot number 1178 of mouza Dumaria number 1 and meets at point A18 as delineated on the plan.

A18—A19 Line passes along with joint boundary line of mouza Dumaria number 1 and Pachrukhi number 14, passes through west and south line of plot number 282 of mouza Pachrukhi number 14 and meets at point A19 as delineated on the plan.

A19—A20 Line passes along with west of plot number 282 of mouza Pachrukhi number 14 and passes along with north and west line of plot number 282 and meets at point A20 as delineated on the plan.

A20—A21 Line passes along with east and north line of plot number 282 of mouza Pachrukhi, passes through west and north line of plot number 326 and meets at point A22 as delineated on the plan.

A22—A23 Line passes along with joint boundary line of mouza Pachrukhi number 14 and Paharpur number 32, passes through north line of plot number 316 of mouza Pachrukhi, passes along with east and north line of plot numbers 308, 307, 305, passes through line of plot numbers 303, 304, passes through east line of plot number 299, passes through south east and north line of plot number 301, passes along with north line of plot number 300 and meets at point A23 as delineated on the plan.

A23—A24—A25 Line passes along with west line of plot numbers 300, 299, 304, 297 of mouza Pachrukhi, passes through north of plot numbers 296, 295, passes through west line of plot numbers 264, 261, passes along with west and north line of plot number 256, passes along with west line of plot numbers 255, 250, and meets at point A25 as delineated on the plan.

A25—A26 Line passes along with joint boundary line of mouza Paharpur number 32, Pachrukhi number 14, passes along with north line of plot numbers 250, 248, 143 of mouza Pachrukhi number 1, passes through east and north line of plot number 142, passes through east line of plot number 140, passes through east and north line of plot number 135, passes through north and west line of plot number 134, west line of plot number 133, north line of plot number 128, along with east, north and west of plot number 121, east line of plot number 123, along with east, north and west line of plot number 124, passes along with east line of plot numbers 125, 126 and meets at point A26 as delineated on the plan.

A26—A1 Line passes through plot number 14 of mouza Paharpur number 32 and meets at starting point A1 as delineated on the plan.

[No. 43015/5/93-LSW]
B.B. RAO, Under Secy.

मानव संसाधन विकास मंत्रालय
(महिला एवं बाल विकास विभाग)
पूर्त विन्यास अधिनियम, 1890 (1890 का 6) के मामले में
राष्ट्रीय बाल कोष, नई दिल्ली के मामले में
नई दिल्ली, 23 जुलाई, 1993

का.प्रा. 1738.—पूर्त विन्यास अधिनियम, 1890 (1890 का 6) की धारा 10 के अनुसरण से केन्द्रीय सरकार एतद्वारा आदेश देती है कि भारत के लिए पूर्त विन्यास के खजांची भूतपूर्व वित्त मंत्रालय आर्थिक कार्य विभाग, नार्थ ब्लॉक, नई दिल्ली में निहित तथा सचिव खजांची (राष्ट्रीय बाल कोष) के नामे जमा रु. 14,00,000/- (चाँदह लाख रुपये मात्र) के अंकित मूल्य को निम्नलिखित प्रतिभूतियों संबंधी प्रतिदान आय को सचिव खजांची (राष्ट्रीय बाल कोष) के नामे अंतरित कर दिया जाए।

प्रतिभूति का विवरण अंकित मूल्य जिस तिथि का देय है
पंचवर्षीय डाकखाना रु. 14,00,000/- 25-7-93
आवधिक जमा योजना

[सं. 13-4/93-टी-आर-II]

सुरजीत लाल, अवर सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Women & Child Development)
IN THE MATTER OF THE CHARITABLE ENDOWMENTS ACT, 1890
(6 of 1890)

IN THE MATTER OF THE NATIONAL CHILDREN'S FUND, NEW DELHI

New Delhi, the 23rd July, 1993

S.O. 1738.—In pursuance of Section 10 of the Charitable Endowments Act, 1890 (6 of 1890), the Central Government do hereby order that the redemption proceeds in respect of the following securities of the face value 14,00,000 (Rupees Fourteen lakh only) held in the name of Secretary-Treasurer (NCF) and vested in the Treasurer of Charitable Endowments for INDIA erstwhile Ministry of Finance, Department of Economic Affairs, North Block, New Delhi be transferred to the Secretary-Treasurer (NCF).

Description of Securities Face value Maturing on
Five Years Post Office Rs. 14,00,000 25-7-93
Time Deposit Scheme

[F. No. 13-4/93-TR-II]
SURJIT LAL, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 6 अगस्त, 1993

का.प्रा. 1739.—केन्द्रीय सरकार को यह प्रतीत होता है कि नोकहिन में आवश्यक है कि महाराष्ट्र राज्य में मुम्बई से पुणे तक पेट्रोलियम पदार्थों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जाए;

और ऐसा प्रतीत होता है कि उक्त पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपचार अनुमूल्यी में वर्णित भूमि के उपयोग के अधिकार का अर्जन करना आवश्यक है;

अब, केन्द्रीय सरकार, पेट्रोलियम और अन्निय पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपचारा (1) द्वारा प्रवत्त अक्षियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आयाय की घोषणा करती है;

उक्त अनुमूल्यी में वर्णित भूमि में हिन्दुस्तान कोई व्यक्ति, राजपत्र, मर्यादा प्रकारण इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दिए जाने की तारीख से 21 दिन के भीतर, उनमें उपयोग के अधिकार का अर्जन या भूमि में पाइपलाइन बिछाने के संबंध में आपाति नियित में श्री एम. धी. चिट्ठिनी, उप प्रबंधक (प्रबालन) और सक्षम प्राधिकारी मुम्बई पुणे पाइपलाइन परियोजना, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, लौनी, कालबाग, पुणे-412201 को कर सकेंगा।

अनुमूल्यी

नामस्मृति: पनपल	जिला: रायगढ़	राज्य: महाराष्ट्र
गांव का नाम	संस्कार नं.	धोका
पणजी	85/5 0 06	31

[एफ. ग. आर. 30027/2/82-जो आर-II]
पी. गोपालकृष्णन, अवर सचिव

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 6th August, 1993

S.O. 1739.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum products from Bombay to Pune in the State of Maharashtra, pipelines should be laid by the Hindustan Petroleum Corporation Limited:

And whereas it appears that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the lands described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may within 21 days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri M.V. Chitnis, Deputy Manager (Operations) and Competent Authority, Bombay Pune Pipeline Project, Hindustan Petroleum Corporation Limited, Loni Kalbhor, Pune 412 201;

SCHEDULE

Tehsil : Panvel	District : Raigarh	State : Maharashtra
Name of Village	Khasra No.	Area
	Hec-tare	Are Centi- tiare
Poyanje	85/5	0 06 31

[F. No. R-30027/2/92-OR. II]

P. GOPALAKRISHNAN, Under Secy.

नई दिल्ली, 6 अगस्त, 1993

का. प्रा. 1740.—केन्द्रीय सरकार को यह प्रतीत होता है कि नोकड़ित में आवश्यक है कि महाराष्ट्र राज्य में सम्बर्द्ध से पुणे तक पेट्रोलियम पदार्थों के परिवहन के लिए हिंदमान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिल्ड कराई जाए;

और ऐसा प्रतीत होता है कि उक्त पाइपलाइन बिल्ड के प्रयोजन के लिए इस अधिनियम से उपर्युक्त अनुमति में वर्णित भूमि के उपयोग के प्रधिकार का अर्जन करना आवश्यक है;

प्रत, केन्द्रीय सरकार, पेट्रोलियम और अन्तर्राष्ट्रीय पाइपलाइन (भूमि में उपयोग के प्रधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवत्तत प्रक्रियों का प्रयोग करते हुए, उनमें उपयोग के प्रधिकार का प्रर्वत करने के आने आशय को धोषणा करती है;

उक्त अनुमति में वर्णित भूमि में हिन्दमान पेट्रोलियम और अन्तर्राष्ट्रीय पाइपलाइन बिल्ड कोई व्यक्ति, गजपत्र में यथा प्रकाशित इस अधिनियम की इन्हीं माध्यम जनन का उपरक्ष करना दिए जाने की तारीख से 21 दिन के भीतर, इनमें उपयोग के प्रधिकार का अर्जन या भूमि में पाइपलाइन बिल्ड के संबंध में आपत्ति लिखित में श्री एम.वी. चित्निस, उप प्रबंधक (प्रवालन) और सभी प्राप्तिकारी सम्बर्द्ध, पुणे पाइपलाइन परियोजना, हिंदमान पेट्रोलियम कॉर्पोरेशन लिमिटेड, लोनी कालबोर, पुणे-412201 को कर सकेगा।

अनुमति

तहसील : पनवल	जिला : रायगढ़	राज्य : महाराष्ट्र
नांब का नाम	खमग नं.	क्षेत्र
पणजी	83/5 प	हैक्टेयर 0 13 19

[प्रक. सं. आर. 30027/2/82-ओ आर-II]
पो. गोपालकृष्णन, अवार मंत्रिव

New Delhi, the 6th August, 1993

S.O. 1740.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum products from Bombay to Pune in the State of Maharashtra, pipelines should be laid by the Hindustan Petroleum Corporation Limited:

And whereas it appears that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the lands described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may within 21 days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri M.V. Chitnis, Deputy Manager (Operations) and Competent Authority, Bombay Pune Pipeline Project, Hindustan Petroleum Corporation Limited, Loni Kalbhor, Pune 412 201;

SCHEDULE

Tehsil : Panvel	District : Raigarh	State : Maharashtra
Name of Village	Kahsra No.	Area
	Hec-tare	Are Centi- tiare
Poyanje	83/5-A	0 13 19

[F. No. R-30027/2/92-OR-II]

P. GOPALAKRISHNAN, Under Secy.

अम अंतराल

नई दिल्ली, 21 जुलाई, 1993

का.प्रा. 1741.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार परिवहनी रेलवे, बम्बई के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुवंध में निविष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकारण लेवर कोर्ट नं. 1, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-7-93 को प्राप्त हुआ था।

[नं. एल-41011/70/89-आईआर (ही य)]

के वी.वी.जूणी, डैस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 21st July, 1993

S.O. 1741.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of western Railway, Bombay and their workmen, which was received by the Central Government on 21-7-93.

[No. L-41011/70/89-IR(DO)]

K.V.B. UNNY, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT-BOMBAY

PRESENT:

Justice Shri R.G. Sindhakar
Presiding Officer.

Reference No. CGIT-1/48 of 1990

PARTIES:

The Employers in relation to the Management
of Western Railways, Bombay.

AND
Their Workmen

APPEARANCES:

For the Employer : Shri P. R. Pai, Advocate.

For the Workmen : Shri M. B. Anchan, Advocate.

INDUSTRY : Railways.

STATE : Maharashtra

Bombay, dated the 13th day of July, 1993

AWARD

The following reference has been made to this Tribunal under section 10(1)(d) of the Industrial Disputes Act, 1947 by the Ministry of Labour, Government of India by order dated 24th day of July, 1990.

“Whether the demand of the Paschim Railway Karamchari Parishad for regularising the 22 workmen listed in Annexure ‘A’ is justified? If so, What relief the workmen concerned are entitled to?”

On behalf of the workmen, statement of claim has been filed. It is stated therein that while preparing the seniority list of screened substitutes/casual labourers for regularisation to the post of Khalashi Scale 196, 232 (Rs.) in the Electric Traction Department, Bombay Central, out of 387 workmen, the 22 aggrieved workmen’s services were not regularised. Their grievance therefore, is, that the management regularised the services of some other junior workmen in their

turn and thereby these workmen have lost their seniority.

On behalf of the management, written statement has been filed showing the position of the workmen. It has been also stated that their services have since been regularised as Khalashi vide Office Order No. E/ELT/891/11(86)Pt.IV dated 29-01-1988, 24-4-1989 and 28-05-1989. In the circumstances, it was further contended that no dispute now subsists between the parties.

When the matter is called out today, on behalf of the Union, Shri A. G. Rajput, Divisional Secretary, Paschim Railway Karmachari Parishad filed a statement saying that the Union does not want to press the matter subsequent to the regularisation of the services of all the workmen by the management. On behalf of the management, Shri P.R. Pai, Advocate has recorded his ‘no objection’. Since the demand of the workmen has been met and no dispute now survives the award is accordingly drawn.

R. G. SINDHAKAR, Presiding Officer.

नई शिल्पी, 26 जूलाई, 1993

का.ग्रा. 1742.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दैसीकौम के प्रबंधननंद के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण लेबर कोर्ट, बंगलौर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-7-93 को प्राप्त हुआ था।

[न. एन-40012/50/92-आई आर (डी. पू.)]

के. वी. बी. उण्णी, डैसीकौम अधिकारी

New Delhi, the 26th July, 1993

S.O. 1742.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom and their workmen, which was received by the Central Government on 26-7-93.

[No. L-40012/50/92-IR(DU)]

K.V.B. UNNY, Desk Officer.

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR
COURT, BANGALORE

Dated, the 20th day of July, 1992

PRESENT

Shri M.B. Vishwanath, B.Sc., B.I.,

Presiding Officer

Central Reference No. 64/92.

Basavaraj

S/o Bheemappa
Ex. Casual Labour,
C/o Sri C. Ramanjaneyulu,
Advocate,
Bellary.

v/s

1. The Telecom District Engineer, Dept. of Telecoms, Gulbarga-585101.
2. The Sub-Divisional Officer, Department of Telecom, Bidar.

AWARD

In this reference made by the Hon'ble Central Government by its order No. L. 40012/50/92-IR(DU) Dt. 27-7-92 under Sec. 10(2A)(1)(d) of I.D. Act the point for adjudication as per schedule to reference is :

“Whether the action on the part of Department of Telecommunications, Gulbarga in terminating the services of Sri Basaveraj s/o Sh. Bheemappa, Ex. casual labour is justified? If not, to what relief the workman is entitled to?”

2. In the claim statement it is contended by the I party :—

The I party was working in the office of the SDOT Bidar as casual labour from 1979 to 1981. In the month of Nov, 80 when the I party was working at SIP, Hunnunabad in M.R. No. 10/6791 sustained grievous injuries on his left foot when he was attending to the official duty. The I party has worked under the II party for more than 240 days. The II party gave medical treatment to the I party. The II party utilised the services of the I party workman after the accident till 16-3-81. Thereafter the Sub-Divisional Officer, Telecom Department, Bidar stated that the I party has been removed from service. The II party has not given any reason for the termination. No notice was given to I party. The I party is entitled to be reinstated and entitled to arrears of salary. The II party has terminated the services when the I party had sustained a grievous injury in the course of official duty. The I party took treatment in the District Hospital, Gulbarga. After the I party recovered he approached the II party for reinstatement and arrears of salary. The II party has not reinstated the I party. The I party is entitled to reinstatement and back wages.

3. The I party has filed additional claim statement on 12-7-93. In the additional claim statement the I party has reaffirmed his case set out in the earlier claim statement.

4. It is seen from the order sheet dt. 16-10-92 that Sri V.A. Kulakarni, Sub-Divisional Officer, Telecom, Beedar was present before the Tribunal. He has

taken the copy of the claim statement. The II party has been given 6 adjournments for filing the counter statement. Though 6 adjournments were granted the II party has not cared to file the counter statement. The case was posted to evidence. Even on the two dates the case was posted for evidence there was continuously adjourned for 3 years. Ex. W.1 is the xerox copy of the certificate issued by the Sub-Divisional Officer, Telecom, Beedar. Ex. W.1 clearly shows that I party was working as Mazdoor as per muster rolls since 1979 to March 1981. Ex. W.2 is another xerox copy of the certificate issued by the Supervising Inspector. The Supervising Inspector has certified that the I party was working as a casual mazdoor under him as per muster rolls and that I party sustained injury in the month of Nov., 1980 while he was on duty. The I party has sworn in his evidence that a wire bundle fell on his legs in Nov., 1980 and even then he worked continuously for 3 months. There is nothing to disbelieve the evidence of I party.

5. The I party workman has stated in his evidence that he joined the service of II party on 30-10-79 as Mazdoor. He has stated that he has worked continuously for 3 years. Ex. W.1 is the xerox copy of the certificate issued by the Sub-Divisional Officer, Telecom, Beedar. Ex. W.1 clearly shows that I party was working as Mazdoor as per muster rolls since 1979 to March 1981. Ex. W.2 is another xerox copy of the certificate issued by the Supervising Inspector. The Supervising Inspector has certified that the I party was working as a casual mazdoor under him as per muster rolls and that I party sustained injury in the month of Nov., 1980 while he was on duty. The I party has sworn in his evidence that a wire bundle fell on his legs in Nov., 1980 and even then he worked continuously for 3 months. There is nothing to disbelieve the evidence of I party.

6. From the evidence of I party it is abundantly clear that he has worked continuously for more than 240 days in a year. It is also clear from the facts of this case that the provisions of Sec. 25-F (Retrenchment) of I.D. Act have not been followed. The I party is clearly entitled for reinstatement.

7. Ex. W.3 is the physical fitness certificate issued by the District Surgeon on 13-2-91. This certificate shows that as on 13-2-91 the I party did not have any disease. This means I party was fit for work. Ex. W.4 is the xerox copy of the letter written by the SDO, Telegraphs, Bidar to the Assistant Engineer (HRD), Gulbarga stating that the I party was eligible for work but owing to financial problem I party was unable to continue. The SDO Telegraphs has recommended that I party should be taken on duty if he was eligible.

8. Ex. W.5 is the xerox copy of the certificate given by the District Surgeon to I party. Ex. W.5 shows that I party was under medical treatment from Aug. 1988 to Apr. 1988. It is obvious that the I party could not go on work earlier because he was undergoing treatment as a result of the injury he sustained during the course of employment.

9. I party has stated in his evidence that he took treatment for 9 years. For a long period of 9 years the I party has not worked. It is not proper for the Tribunal to order backwages since the I party has not worked for a long period. In my opinion some compensation, instead of backwages, will meet the ends of justice.

ORDER

The II party is directed to reinstate the I party forthwith with continuity of service. No backwages A compensation of Rs. 5,000 shall be paid by the II party to I party. Reference accepted as stated herein.

Award passed accordingly. Submit to Government.

M.B. VISHWANATH, Presiding Officer.

मर्ई विली, 30 जुलाई, 1993

का.आ. 1743.—बीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण ने केन्द्रीय सरकार सीनियर सुपरिनिटेंडेन्ट ऑफ पोस्ट ऑफिस, किलोन के प्रबंधतान्त्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट बीयोगिक विवाद में बीयोगिक अधिकारण कोलम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-93 को प्राप्त हुआ था।

[एल-40012/89/91-आई.आर. (सी.य.) (पीटी)]

के. बी. बी. उण्णी, हेस्क अधिकारी

New Delhi, the 30th July, 1993

S.O. 1743.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kallam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sr. Supdt. of Post Office, Quilon and their workmen, which was received by the Central Government on 29-7-93

[No. L-40012/89/91-IK (DU) (Pt.)]

K.V.B. Unny, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated, this the 16th day of July, 1993)

PRESENT :

SRI C. N. SASIDHARAN

INDUSTRIAL TRIBUNAL

IN

INDUSTRIAL DISPUTE NO. 48/91

BETWEEN

The Senior Superintendent of Post Offices, Quilon Division, Quilon-691001.

(By Sri Shaji Chellappan, Addl. Central Govt. Standing Counsel, Trivandrum).

AND

Sri. S. Anirudhan, Thekvela Veedu, Thazham South, Paniyil, Chathanoor P.O., Kollam 691 572.

(By Sri K. Babyson, Advocate, Kollam).

AWARD

This industrial dispute has been referred for adjudication by Government of India as per Order No. L-40012/90/91-IR(DU) dated 7-11-1991 for adjudicating the following issue :

“Whether the action on the part of the Senior Superintendent of Post Offices, Quilon Division, Quilon, in denying employment to Sri S. Anirudhan as a Telegram Messenger w.e.f. 20-9-1990 is legal and justified ? If not, to what relief the said workman is entitled to ?”

2. Sri Anirudhan, the workman in this case, has stated in the claim statement that he is fully qualified to be appointed as telegraph messenger. He has been employed by the management as an Extra Departmental Delivery Agent (EDDA for short) at Karamcode P.O. from 27-4-1985 to 6-3-1986 without any complaint on a salary basis. He was again employed later as telegraph messenger from 3-5-1989 on a salary basis. He was getting monthly salary on a stamped receipt and he was treated as a regular workman. He used to sign his attendance register and took casual leave. He was working on a continuous basis and local authority was realising professional tax from him. The opposite party management terminated his services on 29-10-1990 without assigning any reason. He was working from 3-5-1989 to 29-10-1990 without break and he has thus completed 240 days. The termination according to him is illegal, irregular and against natural justice. The decision of management is arbitrary. Though he has represented to the management, there was no positive reply from the management. Since the workman has completed 240 days he is entitled to work as a permanent workman in the management department. The claim is for reinstatement in service and regularisation will all benefits.

3. The management opposes the claim of the workman. It is stated in the reply statement that Sri Anirudhan is not a workman and hence this dispute is not maintainable in law. There is no post of telegraph messenger at Karamcode Post Office. The management is a Department under the Central Government and various posts are sanctioned and created based on prescribed standards by Government. He was employed as EDDA from 27-4-1985 to 31-7-1985 as a substitute and from 1-8-1985 to 6-3-1986 on a provisional basis. This provisional appointment was terminated for making regular selection as per the specific terms of appointment. The workman relinquished the post voluntarily without any objection. The provisional service is only for the period from 1-8-1985 to 6-3-1986 which is less than 240 days. Service as substitute EDDA does not confer benefits as he was the nominee of the permanent EDDA. The petitioner was employed as coolie messenger for delivery of telegraph at Karamcode from 3-5-1989 to 29-10-1990. No coolie is engaged permanently for this purpose but service of available mazdoor are utilised. The workman had at no point of time signed attendance register in the capacity of telegraph messenger. No professional tax has been collected from the applicant as per the certificate of

Panchayat Executive Officer. The applicant was never appointed as a workman. For delivery of telegrams in offices where there are no sanctioned post, only casual arrangement is made and available mazdoor are engaged on coolie charges. As no permanent appointment can be made for the delivery of telegrams at Karamcode Post Office, the claim of the workman for reinstatement and regularisation cannot be acceded to.

4. The evidence consists of both oral and documentary. Two witnesses were examined on the side of the management as MWs 1 and 2 and Exts. M1 was marked on their side. The workman examined himself as WW1 and Exts. W1 and W2 have been marked on his side. The attendance register of the management was marked as Ext. C1.

5. The claim of the workman is for reinstatement in service and regularisation with all benefits. The claim is based on the ground that he had worked 240 days under the management in the capacity of EDDA and telegraph messenger at Karamcode Post Office. According to the workman he had signed the attendance register and received monthly salary after executing stamped receipt. The workman bases his claim mainly on Exts. W1, W2 and Ext. C1 documents. Ext. W1 is photocopy of a certificate issued to the workman from the Dist. Superintendent of Post Office, Kollam. It is stated in Ext. W1 that the workman has worked as EDDA at Karamcode Post Office during the period from 27-4-1985 to 6-3-1986 on leave vacancy. It is clear from Ext. W1 that the workman has worked only as a substitute on a leave vacancy for a specific period. After the expiry of that period he cannot claim as of right to continue there as he was only a substitute of a permanent EDDA. His engagement on a leave vacancy as substitute for a specified period will not confer him any right for getting permanency or regularisation. Further he was not appointed on any application invited by the management for that post. He was also not given any appointment order by the management. So the claim based on Ext. W1 certificate is only to be rejected.

6. According to the workman he had worked as telegraph messenger from 3-5-1985 to 29-10-1990 without any break and therefore he is entitled to be regularised in service. The case of the workman is that his services were terminated without assigning any reason and the action of management is arbitrary and illegal. As per Ext. W2 reply statement filed by the management before Asst. Labour Commissioner it is stated that the workman was engaged as EDDA from 1-8-1985 to 6-3-1986 purely on provisional basis and he was engaged as a coolie messenger for delivery of telegrams from 1988 till 19-9-1990. It is made clear as per Ext. W2 para. 1 that this arrangement was not an appointment and he was paid mazdoor charges for delivery of the messengers. In para. 2 and 4 of Ext. W2 it is stated that he was paid wages for work done by him that a coolie messenger engaged for work is paid according to

convenience of the concerned telegraphic officer either daily, weekly or monthly that he is not an employee of the management and that no appointment order was issued in his favour. The definite case of the management is that there is no post of permanent telegraph messenger at Karamcode Post Office and the workman was engaged only as a coolie messenger. Ext. W2 and evidence of MW1 fully support the case of management.

7. The workman has no case that he was given any appointment order by the management. He has also no case that he has filed any application for appointment and that he has undergone the procedure for appointment under the management. The management is a Department under the Government of India and the appointments are governed by the various rules and procedure prescribed by Government from time to time. If any appointment is made without following relevant rules that will affect eligible candidates. It is true that he has signed Ext. C1 attendance register. But it has come out through MW1 that along with permanent employees others engaged by the management have also to sign attendance register. Since he was not given any appointment order and he was not selected as per the norms and procedure prescribed by Central Government, his engagement as coolie messenger can only be treated a back door entry. It has now become common practice to ignore the Employment Exchange and the persons registered there and to employ directly persons who have not even registered their names in the Employment Exchange or though registered are lower in the long waiting list. If such a person is regularised merely on the ground that he has completed 240 days of service that will definitely affect the qualified persons who have registered their names in the Employment Exchange and waiting in the long queue for years for employment. Further that will entail infringement of equality of opportunity for young men in the matter of employment in our country where there is large scale unemployment. Such a practice cannot be encouraged. It may be recalled that according to the management there is no permanent post of telegraph messenger at Karamcode Post Office and there is no evidence on the contrary. There is nothing on record to show that he was engaged for a particular period and that he was paid any professional tax. There is also nothing to show that he was engaged in a permanent post by giving any appointment order. His engagement was purely casual and he was paid coolie charges for the work done by him. He cannot therefore claim continued employment on that ground. The non-engagement of him as coolie messenger will not amount to termination of service. It is now well settled that there is no principle or provision of law entitling a casual workman to reinstatement simply because he was so employed for more than one occasion or he so worked for a long period of time. It is also settled position that the practice of continuing employment on the ground that a casual or temporary employee had worked 240 days in a year will lead to a good deal of illegal employment in the market. In these circumstances it cannot be held that there was any termination of his services by the management. That being the case the

question of reinstatement or regularisation does not arise at all.

8. In the result an award is passed holding that there was no denial of employment to Sri Anirudhan by the management and therefore he is not entitled to any relief.

C. N. SASIDHARAN, Industrial Tribunal

APPENDIX

Witnesses examined on the side of the Management

MW1.—Sri P. Vasudevan Pillai

MW2.—Sri S. Balasubramaniam

Witness examined on the side of the Workman

WW1.—Sri S. Anirudhan

Document marked on the side of the Management

Ext. M1.—Photostat copy of letter issued from the Executive Officer, Chathannoor Panchayat to the Asst. Superintendent of Post Office, Kollam

Documents marked on the side of the Workman

Ext. W1.—Photostat copy of certificate issued to Sri Anirudhan from Asst. Superintendent of Post Office, Quilon South Sub Division, Kollam

Ext. W2.—Photostat copy of reply statement filed by Senior Superintendent of Post Office Collam Division before the Asst. Labour Commissioner, Trivandrum

Court Document

Ext. C1.—Attendance register of the management at Karamcode Post Office for the period from October 1982 to December 1990.

नई दिल्ली, 30 जुलाई, 1993

का.प्रा. 1744.—ओर्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टी. बी. डैम, जिला बिलंगी के प्रबंधतान के संबद्ध नियोजकों, और उनके कर्मकारों के बाच, प्रतुषंघ में निश्चिट ओर्योगिक विवाद में केन्द्रीय सरकार ओर्योगिक अधिकरण बैंगलोर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-93 को प्राप्त हुआ था।

[एन-42012/199/90-आई.आर. (डी.यू.) (पी.टी.)]

के. बी. बी.उण्णी, डैस्क अधिकारी

New Delhi, the 30th July, 1993

S.O. 1744.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of T. B. Board, Bellary District and their

workmen, which was received by the Central Government on 29-7-1993.

[No. L-42012/199/90-IR(DU)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated this 23rd day of July, 1993

PRESENT:

Sri M. B. Vishwanath, B.Sc., B.L., Presiding Officer,
Central Reference No. 46/91

I party

Sri Basu C/o Noor Stores, E. V. Camp, T. B. Dam.
Pin : 583225, Bellary District.

V/s.

II party

The Secretary, Tungabhadra Board, T. B. Dam-583225.
Bellary District.

AWARD

In this reference made by the Hon'ble Central Government by its Order No. L-42012/199/90-IR(DU) dated 8-7-1991 under Section 10(2A)(1)(d) of I.D. Act the point for consideration as per schedule to reference is :

"Whether the action of the Tungabhadra Board, T.B. Dam, Bellary District in terminating the services of Sri Basu, S/o Muniswamy is justified? If not, what relief he is entitled to?"

2. In the claim statement the I party workman has contended that he has worked under the II party continuously from 1-2-82 to 1-10-85 as mazdoor. He was drawing wages as per wage slip vouchers. He has stated that his services were terminated by the II party without giving any reason and without holding any enquiry. He has prayed that declaration should be given that the removal is illegal and II party should be directed to reinstate him with back wages.

3. In the counter statement it is contended that the dispute is not industrial in nature and so this Tribunal has no jurisdiction. It is contended that the II party is not an independent autonomous body. The II party is not an industry. Without prejudice to these contentions, it is further stated in the counter statement that the I party has not worked continuously for 240 days in a year. It is stated that the I party was a casual labour on daily wages and he has worked intermittently when the canal work was undertaken. So he is not entitled for any relief.

4. Since the point for adjudication is covered by the schedule to reference, no separate issues have been framed. It has been made clear in the order sheet dated 11-11-92 that all other subsidiary points would be considered at the time of final arguments.

5. Certain developments in this reference have to be mentioned. A number of adjournments were granted to II party to file its counter statement. The II party did not file the counter statement. So the case was posted for evidence. Subsequently the Learned counsel for the II party filed I.A.I. praying permission to file the counter statement. I.A.I. was allowed and the II party was permitted to file the counter statement. Thereafter counter statement was filed. The case was posted for documents, witness list and evidence. The II party has not shown any interest, though burden of proving the issue as per schedule to reference is on the II party. Though 8 adjournments were granted to the II party to adduce evidence, the II party has not adduced any evidence. On 15-7-93 the Learned Counsel for the I party opposed the Court granting any adjournment suo moto on the ground that the I party workman had come from Hospet. Under these circumstances the case of the II party was taken closed and the evidence of I party workman (W.W.1) was recorded. The case was adjourned to 23-7-93 from 15-7-93 for argu-

ments. Even on this day there was nobody to represent the II party. The arguments on behalf of the I party were heard and the case was posted for award.

6. It bears repetition. The burden of proving the issue is on the II party. The II party has not adduced evidence. The I party workman has stated in his evidence that he was working as a labourer in the non-muster rolls from 1-2-82 to 1-10-85 continuously under the II party at T.B. Dam. He has stated that he was being paid Rs. 6.50 ps. per day and he was putting his signatures in the vouchers. He has given some of the voucher numbers. He has stated that the vouchers are in possession of the II party. He has asserted that his name is found in non-muster rolls for the period 1-2-82 to 1-10-85. This evidence of I party workman has not been tested by the touchstone of cross-examination. The Court is left with Hobson's choice. As there is nothing to disbelieve the evidence of I party, I accept his evidence. It is clear from his evidence that he has worked continuously in a year for more than 240 days. He has stated that he was told orally by the Jr. Engineer Vijaykumar not to come to work after 1-10-85. He has stated that though he requested the J.E. to take him on duty, he went on promising to take him on duty but did not take him on duty.

7. It is stated in the counter statement that the II party is not an industry and so the dispute raised in this reference is not an industrial dispute. Industry means any undertaking and includes any calling, service, employment. By no stretch of language could it be said that the II party is not an undertaking. So I hold that the II party is an industry.

8. Industrial dispute means any dispute between the employer and workman. Now there is a dispute between II party employer and I party workman. The dispute undoubtedly is an industrial dispute. There is no substance in the contentions raised in the counter statement.

9. Since the I party is mostly to blame for the delay I am not inclined to grant back wages. Some compensation will meet the ends of justice.

10. For the aforesaid reasons I pass the following :

ORDER

The II party is directed to reinstate the I party workman with continuity of service. The II party shall pay to the I party compensation of Rs. 3,000. Reference accepted as stated herein and award passed accordingly. Submit to Government.

(Dictated to Stenographer, typed by him, corrected, signed by me on this 23rd day of July, 1993).

M. B. VISHWANATH, Presiding Officer

नई शिल्पी, 23 जुलाई, 1993

का.आ. 1745.—आधिकारिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आधिकारिक विवाद में केन्द्रीय सरकार आधिकारिक अधिकारण नई शिल्पी के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-7-93 को प्राप्त हुया था।

[संलग्न एल-12012/63/89/आई आर (वी-III)]

एम. बी. विश्वनाथ, अधिकारी

New Delhi, the 23rd July, 1993

S.O. 1745.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to

the management of State Bank of India and their workmen, which was received by the Central Government on the 22-7-93.

[No. L-12012/63/89/JR (B.III)]

S. K. JAIN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING OFFICER : CENTRAL GOVT. INDUSTRIAL TRIBUNAL : NEW DELHI

I. D. No. 60/91

In the matter of dispute between

Shri Ram Din, Messenger, represented by Shri P. P. Trikha, Circle president, SBI Staff Association, 2124/2, Harisingh Nalwa Street No. 58, Karol Bagh, New Delhi-110005.

Versus

State Bank of India, Through its General Manager (Operations), State Bank of India, 11, Sansad Marg, New Delhi-110001.

The Regional Manager, Region No. IV, State Bank of India, 11, Sansad Marg, New Delhi-110001

APPEARANCES :

Shri P. P. Trikha for the workman.

Shri P. K. Gupta for the management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/63/89-I. R. (B. III) dated 18-4-91 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the Management of State Bank of India in terminating the services of Shri Ram Din, Messenger w.e.f. 24-2-1991 was justified? If not, to what relief the workman is entitled to?"

The brief facts of this reference are that the workman was initially appointed against permanent vacancy at Lodi Road Branch, New Delhi and continued to work upto 29-5-82 when his services were terminated. He represented the branch manager but of no avail. An industrial dispute was raised and a written agreement under section 18 of the I. D. Act was arrived at with the following terms:

- The Management agrees to engage temporarily on a regular scale of wages Shri Ram Din as Messenger at any branch in Delhi/New Delhi by 4-11-1982.
- The Management further agrees to appoint Shri Ram Din permanently in service of the Bank in due course, if found suitable as per Bank's rules.
- The Association agrees that the workman shall forego all past claims and also the salary for the period from the date of termination to the date of appointment and that they shall not raise any claim or whatsoever nature before any authority".

The terms of the said agreement were admitted by the bank before the A. L. C. The workman was matriculate before his initial appointment at I. O. C. Lodi Road Complex Branch of the Bank, and no objection regarding these qualifications was raised by the Management. On the basis of the said agreement he was appointed on 4-12-82 at Laxmi Nagar Branch of the Bank again. He was called for interview for permanent absorption in the bank service at the representation of the Association. The interview was held on 23-8-84 but his result was withheld and the workman was verbally informed that he was having higher qualification than prescribed by the bank for the post of Messenger. After discussion with the Union the workman was again called for interview on 4-12-86 and his result was again withheld on the ground of higher qualification. The work-

man however continued to serve management. The workman was being treated as permanent employee and was given all facilities available to permanent employees i.e. leave uniform etc. except the benefit of annual increment. The workman through the Union took up for releasing annual increment but was verbally informed by the management that as and when missing file relating to his case was traced out he would get all increments. His increments were not released on one pretext or the other. The workman again requested on 5-12-90 that he be absolved in bank permanent service but no action was taken. The bank never informed the workman that he was not eligible for the post and action of the management in terminating the services of the workman vide letter dated 24-2-91 was nothing but illegal by the management.

3. The Management in reply alleged that the workman had no locus standi to raise the present industrial dispute. Since he was not eligible for appointment being a Matriculate and the post of the messenger being meant for under matric could not be given to him. He was never appointed against any permanent vacancy. All facilities available under the rules applicable to temporary messenger were given to the workman. However, he could not be absolved in regular employment because of his non-fulfilling the required qualifications. Legally there was no ground for the management to take him into regular employment of the bank as he did not fulfil the qualification.

4. I have heard representative for the parties and have gone through the record.

5. The Management in this case examined Shamla Khera Officer of the State Bank of India while the workman himself appeared as WW1. The representative for the management has raised only one objection that the workman was not entitled to regular employment being a matriculate while qualification for the post of messenger were under matric. He has urged that no person who does not fulfil the qualifications could be appointed and the qualification was the prerogative of the management and no relaxation could be given to any person as far as minimum qualification was concerned. The minimum qualification according to representative for the management were as follows :

"4. Under matriculation (minimum 8th standard for the post of messenger). However, Ex-servicemen for the post of messengers/guards need not possess the said minimum education."

According to the above eligibility criteria a candidate was eligible only if he was under matriculate because these posts of messenger were meant for persons who could not study higher classes and discontinued their education before matriculation examination. 8th standard was the minimum qualification. If a person was more qualified than as a prescribed under these qualifications he could not be taken for that post because higher qualification was not required in this case. The representative for the management has referred to 1984 LAB IC 368 Punjab & Haryana High Court Judgment in which it was held as follows :

"Where the qualifications for a post are spelt out by a statute, or precisely prescribed by the employer-State, it can insist on a literal adherence thereto irrespective of either an unprescribed equivalent or a higher academic qualification therefrom possessed by applicants seeking appointments to those posts.

No doctrinaire rule can be laid down that a technically higher educational qualification is necessarily better or more advantageous for the peculiar needs of a post for which the employer-State has prescribed lower qualifications. Also on a larger perspective superlatively higher qualified individuals may not have requisite job satisfaction or motivation in holding a post disquietingly below their academic rank though circumstances for the time being may compel them to accept such a job. The State apart from qualifications may have the larger interest of the service in mind in having persons to man posts who value them and would have enough job satisfaction to hold on to them as well."

"Whether the teachers were being recruited for teaching primary classes or even at the level lower thereto, employer's insistence on a literal satisfaction of the prescribed qualifications of Junior Basic Training or Diploma in Education Training course would be justified. The candidates possessing Degree of Bachelor of Education could not be considered on the ground of possessing higher qualification. A technically higher qualification may be high sounding and superior, but in actual practice may be wholly wasteful and indeed counter-productive when it comes to teaching at the basic primary level or even at the kindergarten level in rural schools."

He has further urged that the qualifications were to be laid down by the management and it was for the management to decide as to of what qualification a person is required by them for doing a particular job. If a person was having qualification more than the minimum prescribed the management had a right to refuse the employment because he did not fulfil the required qualifications.

6. As far as the knowledge of the management about his being a matriculate at the time of settlement before the ALC, the representative has urged that it never came to their notice and the management came to know about his qualification only when he appeared for interview. This fact according to the representative has been corroborated by Mrs. Shamla Khera MW1 when she stated on oath that they came to know about this for the first time in 1986 about the qualification of the workman. The representative has thus urged that the applicant being more qualified than the qualification prescribed was not eligible for employment to this post and as such could not claim any right or title on this job and his services were rightly terminated.

7. The representative for the workman on the other hand has urged that the management has not come with clear hands in this case and the workman was a matriculate at the time when he was first appointed and when settlement before the ALC took place. His qualifications should have been checked at that time and if he was not fulfilling the qualification the workman could be refused employment. But nothing was done by the management and he was taken into employment by the management though he was a matriculate even at that time.

8. The main contention of the representative for the workman was that the workman in question did fulfil the minimum qualification required. The minimum qualification was that the person should be 8th standard pass. The workman in this case was 8th standard pass and in addition to that he had passed matriculation examination also. The case referred by the management decided by the Hon'ble High Court of Punjab & Haryana regarding qualification of for the post of J. B. T. Teacher were not applicable in this case. The qualification laid down in that case by the management were meant for teaching posts and the post advertised were meant for J. B. T. pass candidates. In that situation also if a person was J. B. T. pass and in addition thereto he had done B. Ed. he could not have been found disqualified for that post. In that situation the minimum qualification J. B. T. was a must because in J. B. T. specialised courses were taught to the candidates who used to study that course. If a person did not possess JBT qualification he could have been rightly rejected by the selection committee. JBT was not a pre-requisite for passing B. Ed. but B. Ed. was a separate specialised course not in any way connected with JBT Course. In the instant case a matriculate examination can be passed only after the 8th standard. There cannot be a matriculate without having passed 8th standard. But in the case referred above a B. Ed. was not required to pass JBT before qualifying for B. Ed. So analogy of the case referred by the management representative could not be used here and the facts of the case were entirely different than the case of the present workman.

9. On careful perusal of the points urged by the representative for the parties before me I am of the opinion that the only ground on which the workman services have been dispensed with and he has not been regularised was his qualification which in my opinion was not justified. According to the rules of the management the minimum qualification was 8th standard pass but it does not say that any

person who has passed matriculation would not be eligible. The eligibility is for those who are at least 8th standard pass, therefore, this judgment of the Punjab & Haryana High Court referred by the management does not in any way fits in the facts of this case. If a person was under matric at the time of his initial appointment and he later on passes matric, intermediate or achieved Bachelor degree, would he be shunted out from the job? In the judgment referred by the management, the job was that of a teacher meant for teaching junior classes and for that purpose specialised courses were being taught in J. B. T. or Diploma in Education training course by the Haryana Education Department. Those candidates who qualified those Diplomas become specialised for teaching student of Primary Classes and that was important and necessary for fulfilling their qualification laid down by the management. But in case a candidate possessed J. B. T. qualification and in addition he was a B. Ed. pass he would not be treated as disqualified for the said post because he was possessing the minimum prescribed course and specialised required by the management. The question that he also had higher qualification may or may not weigh for the interview board while selecting him but his possessing of the basic qualification for the said post would entitle him to be called for interview and he could not be rejected merely on the ground that in addition to the minimum qualification he was possessing some higher qualification. In the instant case the workman concerned was positively 8th standard pass, which was the minimum qualification required for the post of the messenger and he possessed that qualification at the time of his initial appointment and at the time of the agreement entered into before the A. L. C. He worked as such on that post for sometime when he was called for interview but the first interview was conducted but the result was withheld and at the second interview again he was called but the only point of rejection of the candidate which has not been conveyed to him in writing was that he was having higher qualification. Under the Constitution of India every citizen was free to acquire higher and higher qualification and acquiring of higher qualification could not be a disqualification for his getting a job, provided he possessed the minimum/particular qualification meant for a particular job. The workman in this case possessed 8th standard qualification and also was a matriculate and as such he could not be considered as disqualified for the said post merely because he was a matriculate. If the minimum qualification for the post in question had been 8th standard with second division a person having passed 8th standard with 1st division could not be said to be ineligible for the post of messenger because he possessed the minimum qualification which was a pre-requisite for considering him for the said post. Keeping in view all these facts I am of the opinion that the workman did possess minimum qualification required for the post of messenger and he could not be treated as ineligible for this post simply because he was a matriculate in addition to the minimum qualification.

10. Another point on which the management has not referred during the course of arguments was that the workman was working for a long time and there was nothing against his work and conduct throughout but he was not paid any annual increments to which he was entitled as per service rules. Nothing has been shown by the management as to why increments were not granted to him when he was posted in a regular scale, and he had been paid increments which was his lawful right his pay would have been much more than what he was last paid. While his services were terminated the retrenchment compensation paid to him was on the basis of actual salary having been paid to him and not future increments which were due to him. The retrenchment compensation thus paid to him was also much less than he deserve. He was entitled to all increments as alleged in the statement of claim but no point has been urged by the management as to why increments were not given to him during the said period. Payment of less retrenchment compensation was also a ground which would make his retrenchment illegal.

11. Keeping in view the facts discussed above, I am of the definite opinion that the termination of the services of the workman was not at all justified and the workman was entitled to management with full back wages. He was entitled to all benefits of continuity in service regularisation, pension etc. as his immediate next junior has got during his tenure in service.

12. The management as was in my opinion highly unjustified in terminating the services of this employee. This workman who has not only suffered for want of his higher qualification which the Government is encouraging to all its employees but has been discriminating for no fault of him. It would be suitable case in which exemplary costs are imposed on the management for such an illegal act. I, therefore, hold that the management should pay Rs. 10,000 as costs to the workman in this case.

11th June, 1993.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 26 जुलाई, 1993

का.ग्रा. 1746.—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा अपेक्षित है कि सीमेंट उद्योग में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविधि 3 के अंतर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए उपयोगी सेवाएँ धोषित किया जाना चाहिए।

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (4) के उपखंड, (6) द्वारा प्रदत्त अक्षितयों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छ: मास की कालावधि के लिए लोक उपयोगी सेवा धोषित करती है।

[संख्या एम-11017/13/85-डी-1(ए)]

एम. एस. पराशर, अवृत्त सचिव

New Delhi, the 26th July, 1993

S.O. 1746.—Whereas the Central Government is satisfied that the public interest requires that the services in the Cement Industry which are covered by entry 3 in the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purpose of the said Act;

Now therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/13/85-D.I(A)]

S. S. PRASHER, Under Secy.

नई दिल्ली, 26 जुलाई, 1993

का.ग्रा. 1747.—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा अपेक्षित है कि कोल उद्योग को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची के मद्द 4 में निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए उपयोगी सेवा धोषित किया जाना चाहिए;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (4) के उपखंड (6) द्वारा प्रदत्त अक्षितयों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त

उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तस्काल प्रभाव से छह मास की कानावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस-11017/13/81-डी-1(ए)]
एस. एस. पराशर, अवर सचिव

New Delhi, the 26th July, 1993

S.O. 1747.—Whereas the Central Government is satisfied that the public interest requires that the Coal Industry which is covered by item 4 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/13/81-D.I.(A)]
S. S. PRASHER, Under Secy.

नई दिल्ली, 30 जुलाई, 1993

का.प्रा. 1748.—केन्द्रीय सरकार का यह समाधान हो जाने पर कि लोकहित में ऐसा करना आवश्यक है, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ण) की उपधारा (6) के अनुसरण में भारत सरकार के श्रम मंत्रालय की तारीख 11 जनवरी, 1993 की अधिसूचना मेंद्या 199 के तहत दिल्ली दुध योजना के अधीन दुध आपूर्ति उद्योग को उक्त अधिनियम के प्रयोजनार्थ 29 जनवरी, 1993 से छह मास की कानावधि के लिए लोकोपयोगी सेवा घोषित करती है।

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त अवधि को और छह मास के लिए बढ़ाना आवश्यक है,

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ण) की उपधारा (6) द्वारा प्रदत्त प्रक्रियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनार्थ 29 जुलाई, 1993 से छह मास की कानावधि के लिए लोकोपयोगी सेवा घोषित करती है।

[संख्या एस-11017/14/81-डी-1(ए)]
एस. एस. पराशर, अवर सचिव

New Delhi, the 30th July, 1993

S.O. 1748.—Whereas the Central Government having been satisfied that the public interest so required had in pursuance of the provision of sub-clause (v) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 199 dated the 11th January, 1993 the industry for the supply of milk under the Delhi Milk Scheme to be a public utility service for the purposes of the said Act, for a period of six months from the 29th January, 1993;

And, whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 29th July, 1993.

[No. S-11017/14/81-D.I.(A)]

S. S. PRASHER, Under Secy.

अम मंत्रालय

नई दिल्ली, 20 जुलाई, 1993

का.प्रा. 1749.—अधिनियम विवाद अधिनियम, 1947 (1947 का 14) की धारा 18 के अनुसरण में, केन्द्रीय सरकार एम. गी. सी. एल. के प्रबन्धन के संबंध नियंत्रजनी और उनके कर्मकारों के बीच अनुबंध में मिलिट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रबन्धन द्वारा देशवाद के पंचपट का प्रकाशित करती है, जो केन्द्रीय सरकार की 15-7-93 को प्राप्त हुआ था।

[संख्या एन-22012/231/88 दी-IV(बी)]

राजा लाल, ईस्ट अधिकारी

MINISTRY OF LABOUR

Now Delhi, the 20th July, 1993

S.O. 1749.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on 15-7-1993.

[No. L-22012/231/88-DIV (B)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT:

Sri Y. Venkatacharan, M.A., B.L. Industrial Tribunal

Dated: 29th June, 1993

Industrial Dispute No. 52 of 1989

BETWEEN

The Workmen of S.C. Co., Ltd., Area-I, Ramagundam Division, P.O. Godavari Khani, Dist. Karimnagar (A.P.)Petitioner

AND

The Management of S.C. Co. Ltd., Area-I, Ramagundam Division, P.O. Godavari Khani, Dist. Karimnagar (A.P.)Respondent

APPEARANCES :

M/s. G. Bikshapathi, G. Vidyasagar, V. Vishwanatham, R. Vinesh Raj and K.V.V. Bhaskaran, Advocates for the Petitioner.

M/s. K. Srinivasa Murthy, G. Sudha, Advocates for the Respondent.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-22012(231)88-D.IV.B, dt. 3-7-1989 referred the following dispute under Section 10(1)(d) & (2A) of the Industrial Disputes Act, 1947 between the Management of Singareni Collieries Company Limited, Area-I Ramagundam Division and their workman for adjudication by this Tribunal.

"Whether the action of the Management of M/s. Singareni Collieries Co. Ltd., Area-I, Ramagundam Division, P.O. Godavari Khani, Dist. Karimnagar (AP) in dismissing Sri Suryampudi Raju, Coal Filler, GDK I Incline w.e.f. 12-4-1987 is justified ? If not to what relief the workman concerned is entitled ?"

The said reference was registered as I.D. No. 52 of 1989 on the file of this Tribunal. Notices were issued to both the parties.

2. The workmen in his claim statement stated that the Petitioner-workman was appointed as Badli Filler in the year 1974 in Singareni Collieries Company Limited. In the year 1976, he was promoted as Coal Filler. The Petitioner was working under the GDK No.1 Incline. Ever since the appointment as Coal Filler, the Petitioner has been performing his duties to the entire satisfaction of his superiors. The Petitioner submits that he was on duty on 24-7-1986 in second shift. While he was intending to go down the Mine, after resuming the duty, other Badli fillers created trouble and did not allow the other Coal fillers including the petitioner to go underground. After resuming the duties the other Badli filler created trouble and did not allow him to go underground. The Badli fillers raised a dispute with regard to payment of wages on the basis of acting musters. The grievances of the Badli Fillers was that if they are paid on the basis of piece-rate, they would get more wages rather than payment on daily rate basis. There were more than 150 Badli fillers who are agitating for the issue while there are less number of coal fillers including the Petitioner. The Coal Filler could not resist the agitation supported by the Coal Fillers. Hence, all the Coal Fillers could not go inside the Mine. The Petitioner was not at all connected with the issue. Since the Badli Fillers did not allow any workmen to enter into premises for going underground, all the persons left the place at about 6.00 P.M. on 24-7-1986. Thereafter on the next day also, the agitation continued by the Badli Fillers. After 3 or 4 days, there appears to have been some understanding between the Badli fillers and the Management and the regular work commenced from 28-7-1986 onwards. The Petitioner joined only on 29-7-1986 i.e. one day after the agitation was called off. While so, to the surprise of the Petitioner, he was issued with a charge sheet by the Colliery Manager on 31-8-1989 alleging that the Petitioner disturbed the shift work and instigated the workmen to go on strike and that the said alleged act constitutes misconduct under Company's Standing Orders No. 16(1), 16(9), 16(19) and 16(20). The Petitioner submitted his explanation denying the charges. Thereafter a farce of enquiry was conducted and finally the Petitioner was dismissed

from service by an order dated 12-4-1987 issued by the Respondent General Manager. The dismissal order is illegal, wholly arbitrary and unjustified. It is submitted that the Management filed an application under Section 33(2)(b) of the I.D. Act before this Hon'ble Tribunal in M.P. No. 109 of 1987 seeking approval of the action taken by the Management in dismissing the petitioner from service. This Hon'ble Tribunal by an order dt. 18-5-1988 granted permission. It is submitted that the findings recorded by this Hon'ble Tribunal in proceedings under Section 33(2)(b) of the I.D. Act, are not binding in proceedings under Section 10 of the I.D. Act. It does not bar raising a dispute for adjudication. Therefore, consequent on the permission having been granted by the Hon'ble Tribunal, the Petitioner raised an industrial dispute before the Conciliation Officer, Central. As there was no meeting point, the failure report was sent to the Government of India which culminated in the present reference. It is submitted that the order of dismissal passed by the Respondent is wholly illegal and unlawful for the following among other grounds may be set aside. The petitioner is not at all connected with the alleged strike. It is also incomprehensible that the workmen in other shift also instigated to go on strike. There is no reason why the third shift persons could not perform their duties, and it is also not the case of the Management that the Petitioner was also responsible for the non-functioning of the mine in subsequent shifts. The allegation in the charge sheet that the strike was declared in contravention of the notification issued by the Government declared Coal Industry as Public Utility Services. It is submitted that the allegation is false and baseless, that there was an alleged strike in the Company, all the employees are equally responsible for the consequences of the strike but the petitioner cannot be singled out and penalised with the dismissal while no other workmen were touched in the alleged incident. There is violation of provisions of notification issued under the provision of Essential Service Maintenance Act 1981. The only alternative to the Management is to take action against the concerned workman under the said Act. Therefore, they are precluded to take any disciplinary action for violation of the provisions of the Essential Service Maintenance Act, 1981. On this ground the action is liable to be set aside. The order of dismissal passed by the General Manager is equally illegal and unsustainable in law. He did not apply his mind. It is doubtful whether the dismissal order has been brought to his notice as the order of dismissal does not contain his signature but only a facsimile. Thus the dismissal order suffers from inherent lack of jurisdiction. The Management also failed to consider the past record of the Petitioner while imposing the extreme penalty of removal from service. Therefore the workman may be reinstated with all attendant benefits.

3. On the other hand the Respondent filed counter in which the Management denied all the allegations levelled against the workman. The workman was initially appointed as Badli fillers in 1974 and later on regularised and he was working from 1976 as Coal

filler. His allegation that as Coal Filler he was performing his duties to the entire satisfaction of his superiors is not correct. The workman in dispute instigated the other Coal Filler which resulted in illegal strike. The illegal strike was done in 2nd shift of 24-7-1986 and again in the second shift of 25-7-1986, and because of the strike by Sri Surampudi Raju the Respondent company sustained loss of production to the tune of 2459 tonnes the approximate value of which is Rs. 6,76,225.00. The workman in dispute was fully aware that the Company is declared as Public Utility Service and the workmen in the Company cannot instigate or conduct illegal strikes to cause loss to the Management. The allegation that while the petitioner has to go down the mine for duty on 24-7-1986 in second shift the other Badli fillers created troubles and did not allow the other Coal fillers to go underground is not correct. Though the officials incharge tried to explain, he has not chosen to heed their words and instigated the coal fillers. There are 150 Badli fillers who are in dispute and they could not go down the mine and the dispute was not at all connected with this issue. It is basically false. The Management issue charge sheet dt. 4-8-1986 for which the workman submitted his explanation. The Management did not satisfy with the explanation and conducted a domestic enquiry. It is not correct to state that the enquiry was totally false. It is true that the workman was connected workman in I.D. No. 56 of 1984 and the Management filed an application under Section 33(2)(b) of the I.D. Act for approval which was numbered as M.P. No. 109/87 before this Tribunal. The Hon'ble Court ordered that the domestic enquiry was held valid, that M.P. is allowed, the allegation that the findings of this Tribunal in M.P. No. 109/87 are binding the proceedings under Section 10 of the I.D. Act is not correct. The Petitioner has misconstrued the provisions of law. The procedure for an I.D. under Section and for proceedings under Section 33(2)(b) with regard to validity of domestic enquiry is one and the same. The Petitioner has contested the matter in M.P. No. 109 of 1987 but once again he raised an I.D. which is numbered now as I.D. No. 52 of 1989. With reference to ground (1) the allegation that the charge sheet is vague and do not contain specific allegation of alleged misconduct on the part of the Petitioner and they do not confirm to the provisions of the Standing Orders No. 16(1), 16(9), 16(19), and 16(2) of the Company's Standing Orders is not correct. With reference to ground (2) the allegation that the Superintendent of Mines being a witness has no power to issue charge sheet or initiate disciplinary proceedings is not correct. The allegation he has no power to order an enquiry with regard to the misconduct committed by the workman in dispute is bad in law is not correct. The charge sheet was issued by the Competent Authority who is having jurisdiction. In view of what has been stated above, this Hon'ble Court may be pleased to dismiss the I.D. No. 52 of 1989.

4. No oral evidence has been adduced by the Petitioner as well as by the Respondent. Exs. M1 to M18 were marked on behalf of the Respondent. The Advocate for the Petitioner-workman did not cite any deci-

sions whereas the Advocate for the Management relied upon the following decisions. She also filed a Memo stating that the following citations which were filed in some other cases may also be considered.

1. 1993 LLJ (I) page 824.
2. S.C.C. 1970(I) page 109.
3. List of cases submitted with regard to instigation of strike in M.P. No. 178/85.
4. Case law cited in I.D. No. 28/90.
5. Order passed in M.P. No. 109 of 1987 in I.D. No. 56 of 1984.

5. The point for adjudication is whether the action of the Management of M/s. Singareni Collieries Company Limited Area-I, Ramagundam Division, Godavari in dismissing Sri Surampudi Raju, Coal Filler, GDK 1 Incline w.e.f. 12-4-1987 is justified ?

6. The contention of the Petitioner-workman is that he was on duty on 24-7-1986 in second shift. While he was intending to go down the mine, after resuming the duty, other Badli Fillers created trouble and did not allow the other Coal Fillers including the Petitioner to go underground. The Badli Fillers raised a dispute with regard to the payment of wages or the basis of acting masters. There were more than 150 Badli fillers who are agitating for the issue while there are less number of Coal fillers including the Petitioner. The Coal Filler could not resist the agitation supported by the Badli Fillers. Hence all the Coal Filler could not go inside the mine. The Petitioner was not at all connected with the issue. Since the Badli Fillers did not allow any workmen to enter into premises for going underground, all the persons left the place at about 6.00 P.M. on 24-7-1986. Thereafter, on the next day also, the agitation continued by the Badli Fillers. After 3 or 4 days, there appears to have been some understanding between the Badli Fillers and the Management the regular work commenced from 28-7-1986 onwards. The Petitioner joined duty on 29-7-1986 i.e. one day after the agitation was called off. To the surprise of the Petitioner, he was issued with a charge sheet by the Colliery Manager on 3/4-8-1989 alleging that the Petitioner disturbed the shift work and instigated the workmen to go on the strike and that the said alleged acts constituted misconduct under Company's Standing Orders No. 16(1), 16(9), 16(19) and 16(20). The Petitioner submitted his explanation denying the charges. A farce of enquiry was conducted and finally the petitioner was dismissed from service by an order dt. 12-4-1987. The order of dismissal was not signed by the General Manager but only facsimile was affixed on the dismissal order.

7. On the other hand the contention of the Respondent-Management is the workman in dispute instigated the other Coal Fillers which resulted in illegal strike. The illegal strike was done in 2nd Shift of 24-7-1986 and again in the second shift of 25-7-1986 and because of the strike by Sri Surampudi Raju the Respondent Company sustained loss of production to the tune of 2459 tonnes. The Petitioner took a lead role on behalf of the shift coal fillers and Badli fillers.

The badli fillers did not allow any workman to enter into the premises for going underground and all the persons left the work place at 6.00 P.M. on 24-7-1986 is not correct. It may be noticed that on 24-7-1986 this Petitioner took lead and instigated the strike and Overman and Under Manager explained to him not to disturb the work and also made it clear to him if there is any problem it would be discussed after shift hours. But the Petitioner has not chosen to heed to their advice and instigated all the workmen not to go down the mine and he continued the same again on 25-7-1986 in second shift and though the petitioner has not booked his in-muster, he has come to the Mine, interfered with the Coal Fillers. The management issued charge sheet dt. 3/4-8-1986 and the petitioner has submitted his explanation. As management was not satisfied with explanation, conducted a domestic enquiry and on the findings of the Enquiry Officer, the Management passed the order of dismissal dt. 12-4-1987.

8. At the very outset I would like to mention that the Petitioner-workman was on duty on 24-7-1986 in Second Shift, while he was intending to go down the Mine, after resuming the duty, other Badli Fillers created trouble and did not allow the other Coal Fillers including the Petitioner to go underground. The Coal Fillers could not resist the agitation supported by the Badli Fillers, hence all the Coal Fillers could not go inside the Mine and that the Petitioner was not all connected with the strike and all the Coal Fillers left the place at about 6.00 p.m. on 24-7-1986. A charge sheet was issued to the Petitioner to which the Petitioner gave an explanation saying that on 24-7-1986 he was on second shift duty and booked his In muster also with the intention to go down the Mine. When he was ready to go down but all fillers not gone down due to their own troubles, he was alone. If he worked they cannot provide any job to him because he is a Coal Filler. As there is no fault on his part, Inspite of this request, the Management ordered an enquiry and found the Petitioner guilty of misconduct. Whatever it may be, the strike was conducted by the Badli Fillers for their grievances and the Coal Fillers has nothing to do with the strike. When once the Badli Fillers were on strike, it is not possible for the Coal Fillers to go down the mine including the Petitioner-workman. It is pertinent to note that a single person cannot organise strike and stop all the workmen from going down the mine. It is a collective grievance. The Petitioner-workman cannot be singled out and frame a charge sheet against him. The explanation of the Petitioner-workman mentions that he was ready to go down the Mine and he was alone and if he work they cannot provide any job to him because he is Coal Filler and that there is no fault on his part. Even in Ex. M13 enquiry proceedings on the first page "Examination of the chargesheeted workman by the Enquiry Officer" in Question No. 4 Do you plead guilty of the charges levelled against you. The answer to it is "No. I do not agree". Inspite of the denial of the Petitioner workman the Management was bent upon conducting domestic enquiry against the Petitioner workman for the misconduct alleged against him. I am of the opinion that there are no grounds of misconduct com-

mitted by the Petitioner-workman. I am also of the opinion that the petitioner-workman cannot be singled out from among the workmen who went on strike on 24-7-1986 and framed charges against him. The Petitioner workman in question was already suffered for want of employment and mental torture and financial loss for eight years, I consider that the punishment is more than sufficient for him.

9. The learned counsel for the Respondent-Management cited a number of decisions in support of their contention. In P. V. SRINIVASA SASTRY & ORS. v. CONTROLLER AND AUDITOR GENERAL OF INDIA & ORS. [1993 (I) I.L.J. page 824], STATE OF MADHYA PRADESH AND OTHERS v. SHAROUL SINGH [S.G.C. 1970 (L) page 109] and a number of case laws cited in I.D. No. 28 of 1990, the above decisions and the facts of the present dispute are entirely different and hence it may be noticed that above judgements have no relevance whatsoever to the facts of the present case.

10. On a consideration of the evidence, facts and circumstances of the case, I am clearly of the view that the order of dismissal passed by the Respondent dt. 10-4-1987 is illegal and unjustified.

11. In the result, the action of the Management of M/s. Singareni Collieries Company Limited, Area-I, Ramagundam Division, P.O. Godavari Khani, Dist. Karimnagar in dismissing Sri Surampudi Raju, Coal Filler, GDK 1 Incline, w.e.f. 12-4-1987 is not justified. The Respondent-Management is directed to reinstate the Petitioner-Workman into service with full back wages and all other attendant benefits.

Award passed accordingly.

Typed to my dictation, given under my hand and seal of this Tribunal, this the 29th day of June, 1993.

Y. VENKATACHALAM, Industrial Tribunal-I
Appendix of Evidence

Witnesses Examined
for Petitioner :
NIL

Witnesses Examined
for Respondent :
NIL

Documents marked for the Respondent-Management by consent :

Ex. M1/3/4-8-86—Copy of the Charge Sheet issued by the Supdt. of Mines, GDK No. 1 Incline, S.C. Co. Ltd., to Sri Surampudi Raju, Coal Filler.

Ex. M2/10-10-84—Copy of the order issued by the General Manager, Godavarikhani to All Pits and Departments, Ramagundam Area.

Ex. M3/31-1-86—Copy of the Circular issued by the Under Secretary to All Pits & Departments.

Ex. M4/6-8-86—Explanation submitted by Surampudi Raju, Coal Filler to the Superintendent of Mines, GDK No. 1 Incline.

Ex. M5/10-8-86—Copy of the Enquiry Notice issued by the Supdt. of Mines, Cdk. No. 1 Incline to Surampudi Raju, Coal Filter.

Ex. M6/15-9-86—Copy of the Enquiry Notice issued by the Supdt. of Mines, Gdk. No. 1 Incline to Surampudi Raju.

Ex. M7/21-9-86—Letter submitted by Surampudi Raju to the Superintendent of Mines, Gdk. No. 1 Incline with regard to postponement of the enquiry.

Ex. M8/22-9-86—Copy of the Enquiry Notice issued by the Supdt. of Mines, Gdk. No. 1 Incline to Surampudi Raju.

Ex. M9/28-9-86—Letter submitted by Surampudi Raju to the S.O.M., Gdk. No. 1 Incline with regard to postponement of the enquiry.

Ex. M10/19-10-86—Copy of the Enquiry Notice issued by the Supdt. of Mines, Gdk. No. 1 Incline to Surampudi Raju.

Ex. M11/11-11-86—Copy of the Enquiry Notice issued by the Superintendent of Mines, Gdk. No. 1 Incline to Surampudi Raju.

Ex. M12/19-11-86—Letter submitted by Surampudi Raju to the Enquiry Officer with regard to postponement of the Enquiry.

Ex. M13—Enquiry Proceedings.

Ex. M14/2-12-86—Enquiry Report.

Ex. M15/12-4-87—Copy of the Dismissal Order issued by the General Manager, Ramagundam I to Surampudi Raju.

Ex. M16/11-4-87—M.O. Receipt Nos. 2059 & 2060.

Ex. M17/11-4-87—Registered cover receipt Nos. 154 & 155.

Ex. M18—Form 'C' Register for the month of July, 1986.

Y. VENKATAHALAM, Industrial Tribunal-I
श्रम मंत्रालय

नई दिल्ली, 27 जुलाई, 1993

का.आ. 1750.—श्रीदीगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बनोरा कोलयरी आफ ईसी. एल. के प्रबंधरात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीदीगिक विवाद में केन्द्रीय सरकार श्रीदीगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-7-93 को प्राप्त हुआ था।

[नं. एल 22012/188/92-भाई आर (सी.II)]

राजा लाल, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 27th July, 1993

S.O. 1750.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure. In

the industrial dispute between the employers in relation to the management of Bhanora Colliery of E. C. Ltd. and their workmen, which was received by the Central Government on 22-7-93.

[No. L-22012/188/92-IR(C.II)]
RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL ASANSOL
Reference No. 43/92

PRESENT :

Shri N. K. Sahi,
Presiding Officer.

PARTIES :

Employers in relation to the Management of Bhanora Colliery of E. C. Ltd.

AND
Their Workmen

APPEARANCES :

For the Employers.—Sri P. Banerjee, Advocate.

For the Workmen.—Sri Bijoy Kumar, Representative of the Union.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 15th July, 1993

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012/188/92-IR(C.II) dated 21-10-92.

SCHEDULE

“Whether the action of the management of Bhanora Colliery under Sripur Area of ECL in prematurely superannuating Shri Bisundeo Paswan, Depot Peon w.e.f. 3-10-88 and also denying him service benefits for the period from 3-10-88 to 11-2-91 was legal and justified ? If not, to what relief the workman is entitled to ?”

2. The case of the union in brief is that the concerned workman Sri Bisundeo Paswan was a Depot Peon at Bhanora Colliery as a permanent employee of the Eastern Coalfields Ltd. His date of birth was wrongfully recorded as 3-10-28 in the Form 'B' register. The workman protested against that wrong entry in the Form 'B' register when he was served with service excerpts. As he raised such dispute regarding his age, it was obligatory on the part of the management to send him to the age Determination Committee for assessment of his age. But that was not done in violation of the provisions of the Implementation Instruction No. 76. On the basis of the entry in the Form 'B' register the workman was illegally superannuated w.e.f. 3-10-88 without disposing his protest lodged at the time of returning the copy of the service excerpts format. Then the workman had no other alternative but to seek remedy before the Hon'ble High Court and the Hon'ble High Court passed the following order on 24-10-90.

“The dispute is to be referred to the Apex Medical Board within 4 weeks from the date of communication of the order and the report of the examination is to be submitted by the Apex Medical Board to the respondent within 2 weeks from the date of reference.”

That in terms of such order the management directed the workman to appear before the Medical Board on 28-2-91 and as per findings of the Medical Board the workman was declared to be 60 years of age on 28-2-91. So his superannuation was due on 28-2-91 on attaining the age of 60 years. After such findings the union raised a dispute on behalf of the workman.

The attempts of conciliation failed. The matter was sent to the Ministry of Labour, Govt. of India and ultimately the dispute has been referred to this Tribunal for adjudication.

3. The management has filed written objection contending inter-alia that the union has no locus-standi and competence to raise the alleged dispute or to support it as the union had no recollection. The present dispute cannot be treated as an industrial dispute as the concerned workman has already retired from service w.e.f. 3-10-88 and the union had no competence to take up the case of a retired employee who claims confirmation of his service after the date of his retirement. The dispute is hopelessly barred as it was raised so many years after recording of his age in the Form 'B' register. The workman is estopped from raising such dispute. That the workman was referred to the Age Determination Committee and his age was medically assessed as 52 years on 3-10-80. On the basis of the proper determination of his age he was rightly superannuated from service w.e.f. 3-10-88. The management has denied all the material averments of the written statement filed by the union. According to the management the workman is not entitled to get any relief in this case.

4. At the very outset Sri P. Banerjee the Id. Advocate for the management has urged before me that the present Reference is not maintainable as the union had no competence to raise the dispute. He has urged before me that as the union has failed to prove by adducing evidence that it had the competence to raise the dispute and had adopted a resolution to raise the dispute, the present Reference is not maintainable. On this point Sri Bijoy Kumar the Id. Advocate for the union has urged before me that it is not necessary to show the competency of the union to raise the dispute. On this point he has relied on the principles laid down in the case reported in 15 S.C.L.J. page 207. So relying on the principles laid down in the above case I must hold that the present Reference is maintainable even if it is not proved that the union had no competency to raise the dispute.

Be that as it may, in this case the Ministry has referred this dispute to this Tribunal to see "whether the action of the management in prematurely superannuating the workman w.e.f. 3-10-88 and also denying him the service benefits for the period from 3-10-88 to 11-2-91 was legal and justified". So practically the question of his premature dismissal from service is to be adjudicated by this Tribunal. As the point of dismissal is to be decided in this case, I find that this case is covered by Section 2A of the Industrial Disputes Act, 1947 wherein it has been provided that a workman independently can raise a dispute regarding his dismissal and any point regarding the termination of his service. So considering that aspect I find that as the Ministry has referred the case to adjudicate on the point of premature superannuation, it is to be presumed that the workman himself independently has raised this dispute u/s 2A of the Industrial Disputes Act, 1947 and as such it is maintainable though the union had no competency to raise the dispute.

5. Secondly Sri P. Banerjee the Id. Advocate for the management has urged before me with all force that within the knowledge of the workman his date of birth was recorded as 3-10-28 in the Form 'B' register. But he did not raise any dispute till the service excerpts were served to him. So he is estopped from raising the dispute at a belated stage. With due respect to his contention I like to say that the provisions of the Indian Limitation Act are not applicable in the arena of industrial disputes. The system of serving service excerpts to the workman is to invite objection against the entries in the service records and the Form 'B' register. In the instant case admittedly the workman raised a dispute regarding the entry of his age in the Form 'B' register when he was served with service excerpts. So considering the

provisions of law and the facts and circumstances I find that the principles of estoppel cannot be made applicable. In the circumstances I find that delay cannot defeat the claim of the workman.

6. Thirdly Sri P. Banerjee the Id. Advocate for the management has urged before me that the present dispute cannot be treated as an industrial dispute as the relationship of employer and employee did not and does not exist between the parties when the dispute was raised. He has urged before me that as there is no such relationship between the parties, the present Reference must fail. With due respect to his contention I find that the workman raised the dispute at the time of returning the service excerpts protesting against the entries in the Form 'B' register regarding his age. But ignoring the same the management illegally superannuated him from service w.e.f. 3-10-88. As it is a case of wrongful dismissal from service it must be held that the relationship of employer and employee between the parties will exist so long the dispute is not finally resolved. Moreover, I find that the present dispute was raised by the workman while he was in service. So I am unable to look eye to eye with Sri Banerjee the Id. Advocate for the management. I find that the present dispute is an industrial dispute and this Tribunal has the jurisdiction to adjudicate the points referred by the Ministry.

7. Sri P. Banerjee the Id. Advocate for the management has lastly urged before me that the Court is to see the interest of the Industry at large. He has urged before me that to decide the points raised in this Reference the Court is to consider whether :—

- (i) it will look into the interest of the Industry or
- (ii) look into the interest of the workman.

He has urged before me that in a case like the present one the Court must look into the interest of the Industry. With due respect to his intention I am to say that as the workman was illegally superannuated from service, the question of looking into the interest of the Industry does not arise.

8. In the instant case admittedly the concerned workman was superannuated from service w.e.f. 3-10-88. Then the workman took the shelter of the Hon'ble High Court and the Hon'ble High Court passed the aforesaid order on 24-10-90. It is also admitted that in terms of the said order the workman was referred to the Apex Medical Board and the Apex Medical Board found him aged 60 years on 28-2-91. So in view of the findings of the Apex Medical Board it must be held that the concerned workman was illegally superannuated from service w.e.f. 3-10-1988 and it was the duty of the management to superannuate the workman w.e.f. the date when he actually attained the age of 60 years. But as the management did not do so the workman is entitled to get compensation for the period for which he could not work. Sri Banerjee the Id. Advocate for the management has urged before me that as the workman did not work for the said period he is not entitled to get any compensation. Further he has urged before me that if the Court decides to give any compensation the Court must consider whether the Court will give him full or partial compensation for the said period. I find that in the instant case the workman for no fault of his own was superannuated from service w.e.f. 3-10-88. So considering all the materials on record and the facts and circumstances I find that the workman is entitled to get full wages and other service benefits for the period from 3-10-88 to 11-2-91 as mentioned in the order of Reference. The question of refusal or granting partial compensation in a case like the present one cannot arise.

9. In the result I find that the action of the management of Bhanora Colliery under Sripur Area of Eastern Coalfields Ltd., in prematurely superannuating Sri Bisundeo Paswan, Denot Peon w.e.f. 3-10-88 was not justified. The concerned workman is entitled to get full wages for the period from 3-10-88 to 11-2-91 and all other consequential service benefits for the said period.

The management is directed to make such payment within three months from the date of publication of the award. If the management fails to make such payment within the stipulated period, then the entire computed amount shall carry compound interest at the rate of 12 per cent from the date of this award with quarterly break till date of payment.

This is my award.

N. K. SAHA, Presiding Officer
Central Govt. Industrial Tribunal
Cum-Labour Court, Asansol

तर्हि दिल्ली, 27 जूलाई, 1993

का.आ. 1751.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैं एस.सी.सी.एल. रामागुंडम डिविजन के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में ओद्योगिक अधिकरण 1 हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-7-93 को प्राप्त हुआ था।

[स. एल-22012(100)/89-आई आर (सी-II)]

राजा लाल, डैस्क अधिकारी

New Delhi, the 27th July, 1993

S.O. 1751.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-I, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. S.C.C. Ltd., Ramagundam Division and their workmen, which was received by the Central Government on 22-7-93.

[No. L-22012/100/89-IR(C. II)]
RAJA LAL, Desk Officer.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri Y. Venkatachalam, M.A., B.L., Industrial Tribunal-I,
Dated, 9th day of July, 1993
Industrial Dispute No. 80 of 1989.

BETWEEN :

The Workmen of S.C. Co. Ltd., Area-I,
Ramagundam Division, P.O. Godavari Khani,
Karimnagar District...Petitioners

AND

The Management of M/s. S.C. Co. Ltd.,
Area-I, Ramagundam Division,
P.O. Godavari Khani, Karimnagar District...Respondent,

APPEARANCE :

Sri M. Ganga Rao, Advocate—for the Petitioner-
Workmen.

M/s. K. Srinivasa Murthy, G. Sudha, Advocate—for the
Respondent-Management.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-22012(100)89-IR. (C.II) dt. 11-10-1989 referred the following dispute under Section 10(1)(d) & (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of M/s. Singareni Collieries Com-

pany, Limited, Area-I, Ramagundam Division and their Workmen to this Tribunal for adjudication :

“Whether the action of the Management of M/s. Singareni Collieries Co. Ltd., Area-I, Ramagundam Division, P.O. Godavari Khani, Dist. Karimnagar (AP) in demoting Sri Katham Bucham of GDK 6 Incline, from Electrician Cat. IV to Electrical Helper Cat. II, is justified ? If not, to what relief, the workman concerned is entitled ?”

This reference was registered as Industrial Dispute No. 80 of 1989 and notices were issued to the parties.

2. The brief contents of the claim statement filed by the Petitioner-workman read as follows : It is submitted that Sri Katham Bucham appointed as a Badli Fitter in April, 1975 in the Company of the Respondent. Though he was appointed as Badli Fitter, he was entrusted with the work of Helper in the Electrical works. As a consequence, he was also promoted as Helper Electrical in the year 1979. Further he was promoted as Helper Electrical Category II with effect from 1-12-1983 vide proceedings dt. 21-12-1983 and he has completed three years as Helper in Category No. II by 1-12-1986. Further he was also authorised to work as Electrician vide authorisation No. 735 dt. 30-11-1983. Mr. Bucham maintained the shift as Electrician for about one and half years when the side Dumper were existing and presently Mr. Bucham is working under Relay-D and acting in place of Category IV Electrician and discharging his duties as Electrician to the utmost satisfaction of his superior officers. Mr. Bucham made a representation on 2-12-87 requesting the authorities to promote him as Category-IV Electrician considering his long service and experience. That on 19-1-88, the authorities have conducted a test for the purpose of promoting him to the post of Electrician Cat. IV, and he was declared to have passed the said test, he was promoted to the post of Electrician Category IV w.e.f. 14-3-1988, he was kept on probation for a period of three months in the said category. Mr. Bucham worked in the category on the regular basis in accordance with the above proceedings for about thirteen days. Surprisingly the Respondent issued office order dt. 22-3-1988 cancelling the promotion with immediate effect and demoted to the category of Electrical Helper Cat. II without any notice. Though Sri Bucham was promoted by a regular order to the category of Electrician Category No. 4 w.e.f. 14-3-1988 he was holding the post as Incharge Electrician Cat. IV since 30-11-1983 in the officiating capacity with an allowance of sixty paise more of regular salary. Ever as on today, he is working as an officiating Electrician Cat. IV, in the respondent company, even after cancellation of the promotion orders dt. 22-3-1988 and demoted to Cat. II. That in similar circumstances, the persons who are working as Helpers in Fitter trade and those who does not have I.T.I. qualification, but have the long service and experience in the Department were considered for Fitter Category IV though the ITI candidates were available by order dt. 7-1-1988 of the Respondent herein. In the year 1982, one Mr. T. Agarai was also promoted to the post of Electrician Cat. IV w.e.f. 10-1-1982 who also does not possess the ITI qualifications, but has got long service and experience in the Company. In those circumstances the cancellation of the promotion orders issued to Sri Bucham though he was identically placed with the abovesaid persons, is arbitrary and illegal. The Respondent having promoted to Sri Bucham to the post of Electrician Cat. IV w.e.f. 14-3-1988 and after keeping him on probation and again cancelled the promotion without furnishing any reasons thereof and directed to Category II without any notice it amounts to violation of principles of natural justice. It is therefore prayed that this Hon'ble Court may be pleased to hold the action of the Respondent/management in directing Sri Katham Bucham of GDK 6 Incline from electrician Cat. IV to Electrical Helper Cat. II as unjustified and direct the Respondent to restore promotion of Mr. Katham Bucham with back wages from the date of demotion.

3. The brief contents of the counter filed by the Respondent-Management runs thus : The Petitioner was working as Badli Fitter and later in the year 1979 from 7-1-1979 he was appointed as General Mazdoor in Category-I. He was given Category I salary. This petitioner opted for helping the Electricians while he was working as General

Mazdoor. Thus, he worked from 1979 till 30th November, 1983 and he got promotion to post of Helper Category II with effect from 1-12-1983. It is true that this Petitioner completed three years service in Category II by 1-12-1986. It is submitted that in GDK-6 Incline mine Side Dumper were used and because of shortage of Electricians the Petitioner Sri Katham Bucham was posted to act as Electrician in Category IV to work on side dumper and whenever he was acting as Electrician acting allowance as paid to him. As it is not feasible the side dumper were removed. All the persons who were working on the side dumper were posted in their original posts including the workmen in dispute. The Joint Bipartite Committee for Coal Industry prescribed I.T.I. as qualification for promotion to Cat. IV Electrician. The said qualification cannot be relaxable for any workman, much less to the workman in dispute. It was made clear to the Unions including the petitioner Union that the basis minimum qualification will not be relaxed so far as Electrician Cat. IV is concerned i.e. the candidate should possess the I.T.I. Certificate. Those employees who are not having I.T.I. Certificate and acquires skill a training scheme was evolved for them so as they can sit for the examination of I.T.I. It may be noticed the petitioner Union as well as other Unions are parties to the discussions and only after that the Unions are satisfied only this policy was evolved and implemented by all the Mines in all the areas and in all the groups. The circular dt. 4-3-1983 is binding on the petitioner Union also. As such, the Petitioner Union is estopped by its conduct from now re-agitating the issue and espousing the case of Sri Katham Bucham though he is not having the minimum basic qualification of I.T.I. Certificate for promotion from Cat. II to IV which is untenable and un-reasonable. It is true that Sri Katham Bucham made a representation on 2-12-1987 requesting the management to promote him as Cat. IV Electrician. The Agent of the Mines, GDK No. 6, 6A & 6B Inclines constituted a committee on 19-1-1988 and gave promotion to Sri Katham Bucham from Cat. II to Cat. IV. Unfortunately it was brought to the notice of the Agent that he should follow the above mentioned promotion policy or with regard to the Joint Bipartite Committee for Coal Industry circular wherein it has been clearly described that for promotion to Electrician Cat. IV post I.T.I. certificate is required. It may be noticed no power been given to the Agent to relax exempt the qualifications. It may be noticed as the Agent conducted the test to the Petitioner and by mistake and he promoted the petitioner by not following the promotion policy or the Joint Bipartite Committee for Coal Industry circular. What the Respondent now done is nothing but rectifying the mistake. It may be noticed the Agent promoted Sri Katham Bucham with effect from 14-3-1988 and he was kept on probation for three months. During the probation period only the respondent realised his mistake and rectified the same. As such the promotion order was withdrawn and brought the petitioner to his original post in Cat. II. As such this cannot be called as demoting the employee. It is submitted that the Management has made a mistake and rectified the same within the probation period itself. It is respectfully submitted the other helpers in Cat. II who are equally competent and some of them were seniors to the petitioner whose rights are detrimentally effect with resulted in demanding that fair opportunity was not given to them as per the J.E.C.C.I. procedure or promotion policy evolved by the management. Only after the representations made by the workman the Respondent realised its mistake. Promoting Sri Katham Bucham from Cat. II to IV is nothing but depriving other workman who are similarly placed. Unfortunately as this circular and promotion policy were not brought to the notice of the Agent, GDK-6, 6A and 6B Inclines under bonafide impression that what he was doing is correct he has chosen to constitute the Committee and promote the petitioner. The Respondent is well within its rights to rectify its mistake. This fact was also informed to Sri Katham Bucham. As such the allegation that the Respondent surprisingly passed orders cancelling his promotion is not correct. The petitioner union has no right to demand to perpetuate the mistake which is detrimental to the interests of the other workmen. Promoting Sri Katham Bucham leaving aside other workman may result in industrial unrest and similarly placed workmen will be deprived and they will also develop discontented attitude. To avoid all these unhappy consequences and to correct its own act management passed orders cancelling the promotion during the probation period itself. As such

the petitioner has no right to make a demand to promote the petitioner from Cat. II to Cat. IV nor can it raise a dispute on the ground that Sri Katham Bucham was demoted. It is not a case of demotion and this is a case of giving wrong promotion and rectifying the mistake. It may be noticed whenever a Cat. IV Electrician is on leave or absent once in a way he was asked to act as Electrician Cat. IV and he is being paid acting allowance. Whenever an employee acting in a certain post he will not get a vested right in that post. It is respectfully submitted Sri Katham Bucham already filed Writ Petition No. 4479/89 before the Hon'ble High Court to promote the petitioner with effect from 14-3-1988 and to quash the orders passed on 22-3-1988 demoting the petitioner. The Writ Petition is still pending and no interim orders were passed by the Hon'ble High Court and the petitioner herein is working in Category II as Helper. This Hon'ble Court may be pleased to dismiss the claim petition.

4. W.W1 was examined on the side of the Petitioner-workman and marked Exs. W1 to W22. On the other side M.W1 was examined on behalf of the Respondent-Management and marked Exs. M1 to M5.

5. The point for adjudication is whether the action of the Respondent-Management in demoting Sri Katham Bucham from Electrician Cat. IV to Electrical Helper Cat. II is justified ?

6. W.W1 is one K. Buchayya Alias Bucham. He deposed that he is the concerned workman in this case. In brief, he was appointed as Badli Filler in the Respondent with effect from 18-5-1975 and ever since then he is working in the Respondent. He was allotted to work as Electrician by the office order dt. 7-9-1989 and the photostat copy of the said order is Ex. W1. Ex. W2 is the photostat copy of the authorisation dt. 30-11-1983 authorising him to act as Electrician. He was promoted as Cat. II Electrician Helper w.e.f. 1-12-1983 and later office order dt. 21-12-1983 was issued promoting him as Electrician Helper w.e.f. 1-12-1983. Ex. W3 is the office copy of the representation dt. 2-12-87 submitted by him to the Additional Chief Mining Engineer, GDK 6, 6A and 6B Inclines requesting him to promote him as Cat. IV Electrician. After submitting the representation in Ex. W3, he was called for the test before a Committee. Ex. W4 is the photostat copy of the call letter dt. 17-1-1988 to appear for test and interview on 19-1-1988 at 9 A.M. in the office of Area Workshop RG to examine his eligibility for Promotion as Electrician in Cat. IV. Later he was promoted as Electrician Cat. IV as per the office order dated 13-3-1988 and the photostat copy of the said order is Ex. W5. The order in Ex. W5 was cancelled by the office order dated 22/23-3-1988 and the photostat copy of the said office order is Ex. W6. Before issuing the cancellation order in Ex. W6, no notice was issued to him assigning reasons for cancelling the order in Ex. W5. The Union submitted two representations dated 30-3-1988 and 5-4-1988 to the Director (Personnel) S.C. Co. Limited, Kothagudem, requesting to withdraw the cancellation order in Ex. W6. There was no response from the Respondent to the representations in Exs. W7 and W8. Later the respondent company promoted 28 persons including himself to Category IV by the office order dated 18-9-1990 and the photostat copy of the said order is Ex. W13. His name is noted at Sl. No. 18 in Ex. W13. Ex. W14 is photostat copy of the confirmation letter dated 31-7-1991. He was confirmed in the post of Electrician Cat. IV w.e.f. 18-12-1990. He prays the Court to direct the respondent to restore his promotion with back wages from the date of the cancellation order in Ex. W6.

7. M.W-1 is one Shri B. Jayaprakash. He deposed that he is working as Personnel Officer in Singareni Collieries Rama-gundam Area-I since 1970. In IV Category, Electricians will be posted in general. For the post of Electricians, under J.B.C.C.I., the workmen should possess matriculation with I.T.I. and they have to pass trade test also. Even as per the Coal Mines Regulations, and Mining Electrical Rules one should possess I.T.I. qualification. Without possessing the above qualifications, one cannot be promoted from Cat. II to Cat. IV. He knows the case of the Petitioner. On 13-3-1988 he was promoted to Cat. IV. Ex. M-1 is the letter dated 13-3-1988 given by the Management stating that the petitioner was promoted to Cat. IV post. H.M.S. Union has

mised the dispute regarding the promotion of the petitioner. Ex. M-2 is the letter dated 17-3-1988 addressed to the General Manager, RGI objecting the Promotion of the petitioner and at the same time, they have demanded the Promotion to 200 other workmen on the same lines. The concerned Addl. Chief Mining Engineer has promoted the petitioner inadvertantly as he is not aware of the J.B.C.C.I. norms. After realising the fact, the promotion was withdrawn within 10 days of his Promotion by the letter dated 22-3-1988. The petitioner has not possessed the I.T.I. qualification as on the date of promotion. Ex. M-4 is the Memorandum of Settlement dated 12-3-1990. By virtue of this above settlement the petitioner was promoted in the year 1990 after departmental test. Whenever qualified are not posted in higher category the workmen who are working as Helpers to the Electricians will be authorised to act as Electricians as and when required, in the absence of the permanent workmen and they will be paid acting allowance. As per the agreement entered in the year 1983, the Petitioner was already promoted to Cat. IV. The question of promoting him to Cat. IV does not arise.

8. It is the contention of the Petitioner-workman that the Petitioner Mr. Bucham made a representation on 2-12-1987 requesting the Respondent-Management to promote him as Category IV Electrician considering his long service and experience, the Respondent-Management conducted a test on 19-1-1988 for the purpose of promoting him to the post of Electrician Category IV and he was declared to have passed the said Test, he was promoted to the post of Electrician Category IV w.e.f. 14-3-1988 and was kept on Probation for a period of three months in the said category. The Respondent Management issued Order dated 22-3-1988 cancelling the Promotion with immediate effect and demoted to the category of Electrical Helper Cat. II without any notice and without assigning any reasons for passing of such orders.

9. On the other hand, the contention of the Respondent-Management is that as per the Joint Bipartite Committee for Coal Industry prescribed I.T.I. as qualification for promotion to Category IV Electrician. The said qualification cannot be relaxable for any workman. Shri Katham Bucham made a representation on 2-12-1987 requesting the management to promote him as Category IV Electrician. The Agent of the Mines, GDK-6, 6-A and 6-B Inclines constituted a Committee on 19-1-1988 and gave promotion to Shri Katham Bucham from Category II to Category IV. Unfortunately it was brought to the notice of the Agent that he should follow the above mentioned promotion policy or with regard to the Joint Bipartite Committee for Coal Industry circular wherein it has been clearly described that for promotion to Electrician Category IV post I.T.I. certificate is required, and no power has been given to the Agent to relax, exempt the qualifications. As the Agent conducted the test to the petitioner alone by mistake and he promoted the petitioner by not following the promotion policy or the J.B.C.C.I. circular, and the Respondent now rectified the mistake, and promotion order was withdrawn and the petitioner was posted to the original Cat. II. This cannot be called as demotion. It is further contended that the management has made a mistake and rectified the same within the probation period itself.

10. At the very outset, I would like to mention that as per Joint Bipartite Committee for Coal Industry prescribes I.T.I. as qualification for promotion to Category IV Electrician, and that no power been given to the Agent to relax, exempt the qualifications. It is categorically accepted by the Respondent-Management that the Agent conducted the test to the Petitioner alone by mistake and he promoted the Petitioner by not following the promotion policy of the J.B.C.C.I. circular, and that mistake has been rectified during the probation period itself of the Petitioner-workman. It is also the case of the Respondent-Management that the Petitioner Union has no right to demand to perpetuate the mistake which is detrimental to the interests of the other workmen. Promoting the Petitioner leaving aside other workmen may result in industrial unrest and similarly placed workmen will be deprived and they will also develop discontented attitude. So to avoid all these unhappy consequence and to correct

its own act Management passed orders cancelling the promotion during the probation period. If any mistake is made by the management, it has every right to rectify the same. Hence the Petitioner has no right to make a demand to promote the Petitioner from Category II to Category IV and it is not a case of demotion but it is a case of wrong promotion and rectified the mistake. So taking into all the consideration of the evidence, facts and circumstances of the case, I am clearly of the view that the Respondent-Management has rightly rectified the mistake and withdraw the order of promotion dated 14-3-1988.

11. In the result, the action of the Management of M/s. Singareni Collieries Company Limited, Area-I, Ramagundam Division, P.O. Godavarikhani, Distt. Karimnagar (AP) in demoting Shri Katham Bucham of GDK 6 incline is justified. The Petitioner-workman is not entitled to any relief.

Award passed accordingly.

Typed to my dictation, given under my hand and the seal of this Tribunal, this the 9th day of July, 1993.

Y. VENKATACHALAM, Industrial Tribunal-I.

Appendix of Evidence.

Witnesses Examined for the Workmen :

W. W-1 K. Buchayya Alia Bucham.

Witnesses Examined for the Management :

M. W-1 B. Jaya Prakash.

Documents marked for the Workmen :

Ex. W-1/7-9-79.—Office Circular.

Ex. W-2.—Form of appointment of competent persons the coal mines regulations 1957.

Ex. W-3/2-12-87.—Application for promotion to Cat. IV by Shri K. Bucham.

Ex. W-4/17-1-88.—Letter from Colliery Manager calling for interview addressed to the K. Bucham

Ex. W5 13-3-88.—Promotion Order given by Addl. C.M.E. GDK-6A & 6B Incline to Katham Butcham.

Ex. W-6 22/23-3-88.—Office Order cancelling the promotion order of Sri K. Katham Butcham.

Ex. W7 30-3-88.—Letter written by the S.C. Workers Union with regard to illegal demotion—regarding K. Butcham, to the Director (Personal) The S.C. Co. Ltd., Kothagudem.

Ex. W-8 5-4-88.—Do—

Ex. W9 19-3-88.—Do—

Ex. W10 12-6-88.—Certificate issued by G.M. R.G. 6 with regard to the Service Certificate given to K. Butcham.

Ex. W11 18-6-88.—Letter written by the S.C. Workers Union to the Director (Personal), S.C. Co. Ltd., Kothagudem.

Ex. W-12/2-9-88.—Letter written by the S.C. Workers Union to the G.M. S.C. Co. Ltd. with regard to discussion of Cancellation cases.

Ex. W-13 18-9-90.—Xerox copy of the office order with regard to promotion to Category IV Wages.

Ex. 14 31-7-91.—Office Order with regard to promotion to category IV wages.

Ex. W15 22/25-10-84.—Office Order giving promotion to Sri B. Srihari.

Ex. W16 6-2-86.—Office Order giving promotion to Sri Md. Sharfuddin.

Ex. W17 18-5-75.—Office Order with regard to appointment of casual workers.

Ex. W18 21-12-83.—Office Order with regard to General Mazdoors Category-I to work as Helper to Category-II.

Ex. W19 25-3-82.—Promotion Office Order to Sri T. Agaiyah as Electrician Category-IV w.e.f. 10-1-1982.

Ex. W20 22-10-84.—Promotion Office Order to Sri B. Srihari.

Ex. W21—Promotion Office Order to Sri B. Sharfuddin.
 Ex. W22 7-1-88—Office Order of appointment to Category IV.

Documents marked for the Management :

Ex. M1 13-3-1988—Office Order issued by Addl. C. M. GDK 6, 6-A incline with regard to promotion to K. Butcham.

Ex. M2 17-3-88—Letter from S. C. Mines & Engineering Workers Union with regard to restore the particulars against 200 helpers of Godavaikhani of Fitter and Electrical Helpers interview for higher category—regarding.

Ex. M3 22/30-3—Office Order promoting Sri K. Butcham.

Ex. M4—Memorandum of Settlement arrived U/Sec. 12(3) of the I.D. Act.

Ex. M5—Form of appointment of competent persons the coal mines regulations, 1957.

तर्फ दिल्ली, 27 जून 1993

का.आ. 1752 :—आंदोलिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रनुसार में, केन्द्रीय सरकार ग्रामनगर कोन्यारी आफ में, आई आई एम सी ओ नि. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आंदोलिक विवाद में केन्द्रीय सरकार आंदोलिक अधिकारण आसनसोल के पंचपट को प्रकाशित करते हैं, जो केन्द्रीय सरकार को 22-7-93 को प्राप्त हुआ था।

[सं. एन-19012(36)/85-जी-4(वी)]

गजा नाल, डैस्क अधिकारी

New Delhi, the 27th July, 1993

S.O. 1752.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Ramnagore Colliery of M/s. IISCO Ltd. and their workmen, which was received by the Central Government on 22nd July, 1993

[No. L-19012(36)/85-D.IV(B)]
 RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 6/93

PRESENT :

Shri N. K. Saha, Presiding Officer

PARTIES :

Employers in relation to the Management of Ramnagore Colliery of M/s. IISCO Ltd.

AND

Their workman.

APPEARANCES .

For the Employers—Sri P. K. Das, Advocate.

For the Workman—Sri C. S. Banerjee, Joint General Secretary of the Union.

INDUSTRY : Coal. STATE : West Bengal.
 Dated, the 13th July, 1993

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the dispute to the Central Government Industrial Tribunal, Calcutta vide Ministry's Order No. L-19012(36)/85-D.IV(B) dated 14th January, 1986. Subsequently the dispute has been transferred to this Tribunal for adjudication vide Ministry's Order No. S. 11025/2/92-IR(C.II) dated the 27th August, 1992.

SCHEDULE

“Whether the action of the Management of Ramnagore Colliery of M/s. IISCO Ltd., in not protecting the basic pay of Sh. Bulgan Ghose, Cat. I Mazdoor as drawn by him on 31st December, 1982 while officiating in the post of Clerk Grade II after his regularisation in the same post with effect from 18th May, 1983 is justified? If not, to what relief the workman is entitled?”

2. The case of the union in brief is that Sri Bulgan Ghose the concerned workman had been working as Register Keeper w.e.f. January, 1981 at Ramnagore Colliery of M/s. IISCO Ltd., and he had been getting acting allowance from January, 1981. The management took long time to regularise him as Attendance Clerk. Sri Ghose should have been regularised on and from 1st March, 1981 after completion of three months of work as Register Keeper. Sri Ghose received the basic pay of Rs. 508 in the Clerical Grade II prior to 1st March, 1983 i.e. the date of implementation of NCWA-3. The pay of Sri Ghose was not protected after regularisation as per NCWA-3 w.e.f. 1st January, 1983 (para 6 of the written statement). The management has wrongfully fixed the basic pay of Sri Ghose at a lower stage and for that he has suffered economical loss.

The workman raised dispute through his union. The conciliation ended in failure. The matter was sent to the Ministry of Labour, Government of India and ultimately the Ministry of Labour has referred the dispute to this Tribunal for adjudication.

3. The management has filed written objection contending inter-alia that the Reference is bad by the principle of estoppel as the question of fitness of the employee in a case like the present one has been settled by the NCWA-3. The concerned workman Sri Ghose was officiating in Grade II post and he was regularised w.e.f. 18th May, 1983 in the pay scale as per NCWA-3. His pay has been rightly fixed and he is not entitled to get any relief in this case.

4. At the very outset Sri P. K. Das the ld. Advocate for the management has urged before me with all force that the present dispute is not maintainable as the question of dispute like the present one has been settled down by the NCWA-3. Sri C. S. Banerjee the ld. representative of the union has urged before me that the management did not follow the principles laid down in the NCWA-3 and for that the present dispute. Considering the submissions made by Sri Banerjee I am unable to look eye to eye with Sri Das. I find that maintainability of the case is to be decided on the basis of the pleadings. Considering the pleadings of the union in the present case I find that the present Reference is maintainable.

It has been claimed from the side of the union that Sri Ghose was Register Keeper w.e.f. January, 1981 and he had been getting acting allowance from January, 1981 and the management took long time to regularise him as Attendance Clerk (para 2 of the written statement). But there is no specific denial against the same. It is also admitted that Sri Ghose has been regularised in the said post w.e.f. 18th May, 1983. It is the case of the union that his pay had been fixed at a lower stage from the date of regularisation ignoring the provisions of the NCWA-3. On the other hand it has been contended from the side of the management that his pay has been rightly fixed w.e.f. 18th May, 1983 under the provisions of NCWA-3 (para 19 of the written statement). Considering the facts and circumstances and the pleadings of the parties I find that both the parties depend upon the provisions of NCWA (National Coal Wage Agreement). So the question of fitment of pay of the present workman is a matter of calculation. Considering the entire back ground of the present case I find that the pay of the concerned workman Sri Bulgan Ghose is to be protected from the date of his regularisation.

5. In the result I find that the action of the management in not protecting the pay of Sri Bulgan Ghose is not justified. His pay should be protected w.e.f. 18th May, 1983 according to pay structure and other norms.

This is my award.

N. K. SAHA, Presiding Officer

नई दिल्ली, 30 जुलाई, 1993

का.आ. 1753 :—आंदोलिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नीमचा कोल्यारी ग्राफ मैमर्स इसी ग्राफ के प्रबंधितन्त्र के संबंध मियोजनों और उनके कार्मकारों के बीच, अन्वय में निर्दिष्ट आंदोलिक विवाद में केन्द्रीय सरकार और आंदोलिक अधिकरण, कलकता के पंचपट को प्रकाशित करती है, जो वेन्ड्रीय सरकार को 15-7-93 को प्राप्त हुआ था।

[मंत्रा नं-19012/162/86-डी-4(बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 30th July, 1993

S.O. 1753.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Nimcha Colliery of M/s. E. C. Ltd., and their workmen, which was received by the Central Government on 15-7-1993.

[No. L-19012/162/86-D-IV(B)]
RAJA LAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 85 of 1988

PARTIES :

Employers in relation to the management of Nimcha Colliery of M/s. Eastern Coalfields Limited.

AND

Their Workmen.

PRESENT :

Mr. Justice Manash Nath Roy—Presiding Officer.

APPEARANCE :

On behalf of Management—Mr. R. S. Murthy, Advocate.

On behalf of Workmen—None

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

The question, whether the action of the Management of Nimcha Colliery of Messrs. Eastern Coalfields Ltd. (hereinafter referred to as the said Colliery), to retire Mishri Shaw (hereinafter referred to as the said employee), On-setter on superannuation, with effect from March 11, 1986 and that to deprive him of getting the benefits of Clause 9.4.3 of NCWA-III, by refusing employment to his dependant, was justified or not and if not, to what relief the workman was entitled to, was referred for adjudication to this Tribunal, by the Government Order of Reference No. L-19012(162)-86-D. IVB dated June 11, 1987, under section 10(1)(d) and sub-section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act).

2. After service of Notice, the General Secretary of Koyal Mazdoor Congress (hereinafter referred to as the said Union), filed the Written Statement in support of their case of the said employee, on August 3, 1987, contending inter-alia amongst others that the said employee was employed at the Nimcha Colliery as On-setter and since he suffered from some incurable and prolonged diseases, he approached the said Colliery on June 11, 1975, for medical examination, as he was not in a position to continue his employment in a Mine. It has been stated that considering the position of the said employee, the said Colliery referred the matter to Satgram Area Hospital, for Medical examination on September 2, 1985 and that Hospital advised the said employee, to have a fresh X-ray of his chest and to obtain opinion of the Medical specialist as they will review the matter at a later date, if necessary and to find out if the said employee was fit to continue his duties on alternative job. It has further been stated that the recommendations by the Area Medical Board, for the alternative job to the said employee, will indicate that he was incapable of performing his duties and such fact was intimated to the said employee by letter dated October 12, 1985.

3. It has been alleged that although the Area Hospital declared the said employee to be fit for duty, he was totally unable to work for the job in the Mine and even, he could not do any alternative job. It has been stated, however, as advised by the said Hospital, the said employee was referred to Sanctoria Hospital, Apex level, for opinion of the Specialist and his finding was forwarded by the said Colliery on February 21, 1986 to Sanctoria Hospital, for necessary review and for their findings. The above fact, according to the said Union, will go to show that the said Colliery appreciated that the said employee was unfit to continue in employment and that, he was entitled to get the benefits of employment of a dependent under the provisions of the said Agreement, as mentioned earlier.

4. It was the case of the said Union that the said employee was sitting idle from October 30, 1984, due to his sufferings as above and as such also, he had lost his employment. It has been alleged that due to delay in processing the said employee's case for Medical examination, he remained on the roll of the said Colliery, but could not perform his duty. It has been said that although the employee was sent for Medical examination and for the opinion of the specialist, the issue for formally declaring him Medically unfit remained unsettled and as such, the said Colliery showed him in continuous employment until the said employee had retired on March 11, 1986. Such action of the said Colliery was claimed to be illegal and arbitrary, part 11 being an act of unfairness, resulting to denial of necessary benefits under the provisions of the said Agreement, to the said employee, as mentioned earlier. The said Union has quoted in their Written Statement, the provisions regarding employment, to be given to the dependant of a worker, who is permanently disabled.

5. It has been reiterated that the said employee was compelled to sit idle from October 30, 1984, because of his diseases and since the Area Hospital, declared him fit to duty pending the opinion from the specialist, he, inspite of his ailing condition and just to avoid disciplinary action, went for duty, for few days in the month of October and November 1985, but could neither work nor continue attending his duty, for reasons beyond his control. It has been alleged that though loss of employment in this case was specific from October 3, 1984, the relevant clause of the said Agreement as mentioned earlier, which governs the condition of service of the said employee, the said Colliery did not take proper and timely action on his representation, on the contrary, retained him in their roll till March 11, 1986, when the said employee attained the age of superannuation and stood retired. Such action according to the said Union, was intended to deprive the said employee of the benefit of Clause 9.4.3 of the said Agreement and claimed such action, to be illegal, malafide and also characterised the same, as unfair labour practice.

6. Before dealing with the relevant facts of the Written Statement of the said Union, the said Colliery, by their Written Statement filed on July 15, 1986, claimed the Reference to be not maintainable, as the same could not be covered by Section 2(k) of the said Act. It was also claimed that the dispute as referred, could not also be an Indus-

trial Dispute, as the said employee in this case, would not come within the purview of Section 2(s) of the said Act. Furthermore, it has been claimed, there was no community of interest between the person for whom employment was sought and other workmen of the said Colliery. That apart, it was claimed, the Reference was bad, as the same was against the provisions of the Constitution of India, since Eastern Coalfields Limited is a "State", for the purpose of Part III of the Constitution of India and the said Reference, has sought to violate the provisions of the Constitution, relating to equality of opportunity to all citizens, in the matter of employment. Apart from the above, it has been stated that since the Reference has sought to enforce a purported Agreement Settlement viz. the said Agreement, such as issue cannot be a subject matter of an Industrial Dispute, for adjudication by this Tribunal and as such also, the Reference was had, incompetent and inoperative. The two preliminary points, as taken against the maintainability of the Reference, more particularly those in respect of sections 2(k) and (s) of the said Act, were also urged, while dealing with the case on merits. While on the point, further indications were given on the restricted definition of the term "Workman" as in the said Act. The said Settlement, in my view, has a binding force and effect and as such, for violation of the same, if any, I feel that disputes can be raised and investigated too.

7. Although in the Written Statement, the said Colliery has stated the grounds in support that since the Eastern Coalfields Ltd. is a "State", on the basis of several Rulings, I think the determination on that point amongst others, will not be necessary, in view of the ultimate submissions made by Mr. Murthy.

8. It was the case of the said Colliery that the said employee was employed in the capacity as mentioned earlier, in Nimcha Colliery, where the age of superannuation was 60 years and the said Colliery issued him advance notice of such superannuation on September 26, 1988 and informed him that on attaining of such 60 years age of superannuation, he would be superannuated with effect from March 11, 1986. It was further submitted that it was and is a tendency on the part of the Colliery employees, to take undue advantage of Clause 9.4.3 of the said Agreement and to secure employment for the dependants, on the eve of superannuation, on few months prior thereto and this is one of such case.

9. It has been stated that on June 11, 1986, the said employee applied to the said Colliery, for referring him to the Area Medical Board, as he reported to be suffering from some illness and consequent thereto, he was asked to appear before the said Board, on June 11, 1986, which he did not. It has been stated that subsequently, he was given another opportunity to appear before the Board on September 2, 1985 at Sutgram Area Hospital, where he appeared and the said Board advised him, after examination, to have fresh chest X-ray and the opinion of the Medical Specialist and review at a later date as above, if necessary, if he was fit to continue in alternative job. Such opinion of the said Board was conveyed to the said employee on October 12, 1985 and inspite thereof he did not accept the alternative job offered to him by the said Colliery, inspite of repeated instructions to him, in fact, he also did not appear before the Medical Specialist at Sanctoria Hospital with fresh chest X-ray and the opinion of the Medical Specialist and case of the said Colliery that even the Specialist did not declare the said employee, unfit for duty permanently and neither the Medical Board nor the Specialist, declared him to be suffering from any disease of a permanent nature, resulting to loss of employment and the said Colliery also did not certify or make any such declaration. Thus, it has been stated that, so, even if the provisions of Clause 9.4.3 of the said Agreement are to be complied with, the requirements necessary for such Clause, were not fulfilled in this case.

10. It has really been alleged that the said employee avoided appearing before the Area Level Medical Board in the first instance and subsequently, before the Specialist as mentioned above and was reluctant to produce his fresh chest X-ray report and such facts are ample testimony of the fact that he was not suffering from any serious ailment whatsoever, which prevented him from performing any duty. It has been reiterated that the said employee did not also accept the alternative job as provided and thereafter, in usual

course, the notice as mentioned above, was served on him, indicating that he will be superannuated with effect from February 11, 1986, which, in fact, was given effect to.

11. It has also been stated that the said employee was in the employment of the said Colliery till the last date of his age of superannuation and there was absolutely no question of his suffering from any disease of permanent nature or any loss of employment, which according to the said Colliery, should mean, no total loss of employment and the employee concerned was unfit for performing any kind of job.

12. In view of the above and the question of law involved, the said Colliery has claimed that the action in superannuating the said employee in this case, was fully justified and there was absolutely no question of depriving him, the benefits of Clause 9.4.3 of the said Agreement, by not appointing his dependant. In the circumstances as above, it has been claimed that the said employee was not entitled to any relief and his dependant cannot be called or constitute to be a workman in any view of the matter.

13. In reply to his specific averments of the said employee in his Written Statement as mentioned above, the said Colliery, on repeating the facts, as indicated above, denied those statements.

14. There was a Rejoinder dated September 22, 1988, filed by the said Union and on consideration of the Rejoinder, it will appear that barring few facts, nothing new has been stated, in addition to the facts as mentioned in the Written Statement of the said Union.

15. As indicated earlier, no oral evidence was tendered by either of the parties and everything depended on the interpretation of Clause 9.4.3 of the said Agreement, the particulars whereof are quoted hereunder :

"Employment to one dependant of a worker who is permanently disabled in his place :"

(i) The disablement of the workers concerned should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be so certified by the Coal Company concerned.

(ii) The dependant to be considered for employment should be physically fit and suitable for employment and aged below 35 years provided that the age limit shall not apply in the case of spouse.

16. On facts, Mr. Murthy submitted that the said employee, on being offered alternative employment, could not perform the same and he continued in his employment, till he was duly superannuated on February 11, 1986 and he was really in employment of the said Colliery till such date. He further submitted that there was in fact, no evidence of any sufferings relating to the loss of employment of, the said employee and since, he has worked upto the last date of his tenure, the prayers as made, should not and cannot be allowed and the spirit of the said Agreement would establish, the contingency that an employee, who has worked till the last date of his superannuation, will not be allowed to have his dependant employed. In paragraph 15 above, the relevant provisions of Clause 9.4.3 of the said Agreement have been quoted and it will appear therefrom that sub-clause (ii) of the said clause and the requirements as indicated therein, are relevant for appointment of the dependant and further pre-requisites for such employment are also indicated in sub-clause (i) of the said clause, which indicated the relevant and further requirements and they, amongst others, are that the disablement of the concerned worker, should arise from injury or disease of a permanent nature, leading to loss of employment and such character should be certified by the Coal Company concerned. None of the aforementioned requirements, in my view, have been satisfied and proved in this case by any cogent and legal evidence.

17. As indicated earlier Mr. Murthy completed his submissions on April 3, 1993 and thereafter, although notice was served duly, no submissions were made by and on behalf of the said Union or the said employee, on June 9, 1993, as fixed.

18. In view of the state of evidence as available from the records, it would not appear that the said employee has duly

or actually established the fact of his loss of employment or any disablement in terms of clause (i) of clause 9.4.3 of the said Agreement. It should be noted that on May 31, 1990, a list of documents, as sought to be used in the proceeding, was filed by the said Union and on that date, an application was also filed by them, for production of some records, but unfortunately, those documents have not been proved or brought into evidence and the said union also did not take any steps, for having the documents as asked for, produced and on June 17, 1988, both the sides agreed that they will not tender any evidence.

19. For the paucity and lack of evidence, it is very difficult to agree with the case as sought to be made out by the said Union at a later stage and more particularly, at the time of hearing of this proceeding.

20. As such, I feel that the Reference cannot be answered in the affirmative or in favour of the said employee.

21. The Reference is thus rejected.

This is my Award.

MANASH NATH ROY, Presiding Officer

Dated, Calcutta,
The 24th June, 1993

नई दिल्ली, 30 जुलाई, 1993

का.ग्रा. 1754—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गिरिमिट कॉलयरी आफ मैसर्स हैं सी एल के प्रबंध-तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसील के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-7-93 को प्राप्त हुआ था।

[संदर्भ एल-22012/111/90-आई आर(सी-2)]

राजा लाल, ईस्क अधिकारी

New Delhi, the 30th July, 1993

S.O. 1754.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Girimint Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 28-7-1993.

[No. L-22012/111/90-IR(C.II)]
RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 40/90

PRESENT :

Shri N. K. Saha, Presiding Officer.

PARTIES :

Employers in relation to the Management of Girimint Colliery of M/s. E.C. Ltd.

AND

Their workman.

APPEARANCES :

For the Employers—Shri P. Banerjee, Advocate.

For the Workman—None.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 30th June, 1993

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012(111)/90-IR(C.II) dated the 10th September, 1990 :

SCHEDE

“Whether the management of Girimint Colliery under Sripur Area of M/s. ECL in terminating the services of Shri Munshi Issai, CCM Driver, w.e.f. 1-7-1989 on the ground of superannuation on the basis of altered year of birth as 1929 from 1932 was justified? If not, to what relief the workman is entitled?”

2. The case of the union in brief is that the concerned workman Sri Munshi Issai was a permanent workman of Girimint Colliery under M/s. Eastern Coalfields Ltd., as C.C.M. Driver at Sripur Area. He had identity card and C.M.P.F. Account. He was appointed in service on 8-6-1952. As per identity card his year of birth is 1932. The year of birth as recorded in the identity card is free from interpolation. It is nothing but a copy of the entry in the Form B Register. In the year 1987 the management issued service excerpts to the workman giving an opportunity to raise any dispute as the year of birth was recorded in the service excepts as 1929. The workman raised dispute but to no effect. The management directed the workman to appear before a Screening Committee. The Screening Committee without proper examination confirmed the year of birth as 1929 as recorded in the Form B Register and on the basis of such finding he was superannuated from service w.e.f. 1-7-1989.

The workman raised dispute through his union. But the attempts of conciliation failed. The matter was sent to the Ministry of Labour, Government of India and ultimately the dispute has been referred to this Tribunal for adjudication.

3. The management has filed written objection contending inter-alia that this union has no representative character and has no locus-standi to raise the dispute. The Form B Register maintained by the management is a statutory register and in that register the year of birth of the workman has been rightly recorded as 1929, and the workman has also put his LTI on the Form B register. In spite of that when the workman raised dispute his case was referred to the Age Determination Committee and that committee has also confirmed his year of birth as 1929. So the workman is not entitled to get any relief in this case. The management has also denied the other material averments made by the union in their written statement.

4. In the instant case it has been contended from the side of the management that the contesting union has no locus-standi to raise the dispute. The union could not produce any document to show that the union had the representative character and had properly spoused the dispute. Consequently I find that the union had no locus-standi to raise the dispute.

Be that as it may, it is a case against termination of service. According to the provisions of Section 2-A of the Industrial Disputes Act the concerned workman has the right to raise the dispute independently. Considering the facts and circumstances of the instant case it must be presumed that the dispute has been raised by the workman himself and as such the same is maintainable.

5. In the Form B Register the year of birth of the workman has been recorded as 1929. It is a statutory register. Admittedly the workman was referred to an Age Determination Committee and that Committee had also confirmed the year of birth of the workman as 1929. It has been contended from the side of the workman that the workman was given identity card showing his year of birth as 1932. In the instant case the workman has not even examined himself and has also not produced the identity card which is in his possession as per written statement. In the circumstances

I find nothing to say against his year of birth which is recorded in the statutory Form B Register.

In the result I find that the action of the management in the instant case was justified and the concerned workman is not entitled to get any relief.

N. K. SAHA, Presiding Officer

नई दिल्ली, 30 जून, 1993

का.आ. 1755 — अधिकारिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दामोदरिया कालयरी आफ मेसर्स वी सी सी एल के प्रबन्धतंत्र के संबद्ध नियोजकों जॉर्ज उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट अधिकारिक विवाद में केन्द्रीय सरकार अधिकारिक अधिकरण, आसनसोल, के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-7-93 को प्राप्त हुआ था।

[संख्या एल-22012/296/92-प्राई आर (सी-2)]

राजा लाल, ईम्क अधिकारी

New Delhi, the 30th July, 1993

S.O. 1755.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. B.C.C. Ltd., Damagoria Colliery and their workmen, which was received by the Central Government on 28-7-1993.

[No. L-22012/296/92-IR(C.J.I)]
RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 13/93

PRESENT :

Shri N. K. Saha, Presiding Officer.

PARTIES :

Employers in relation to the Management of Damagoria Colliery.

AND

Their Workmen.

APPEARANCES :

For the Employers—Sri P. K. Das, Advocate.

For the Workmen—Sri C. D. Dwevedi, Advocate.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 30th June, 1993

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012/296/92-IR (C.J.I) dated the 25th January, 1993 :

SCHEDULE

"Whether the action of the management of Damagoria Colliery in not regularising Shri Agharilal Chowhan and 7 others (as per list enclosed) as T/R workers and thereby depriving them from their legitimate claims is justified? If not, to what relief is the concerned workman entitled to?"

2. The case of the union in brief is that all the workmen of this case were employed as Quarry Loader during the period of erstwhile owner. They were absorbed by the present management of M/s. Eastern Coalfields Ltd. They were piece rated workers of Damagoria Colliery. Due to mechanisation of that colliery in 1986 the raising of coal from the colliery was stopped and the present workmen were deployed as Excavation Helper. From 1986—88 the workmen worked as Excavation Helper as time-rated workers continuously and they completed 240 days in one calendar year. As per norms of service condition they ought to have been regularised as time-rated workers (excavation helper) at Damagoria Colliery. But in spite of representation the management did not regularise them. After such representation they were transferred again as piece-rated workers. In the meantime the Company has regularised the service of more than 100 piece-rated workers as time-rated workers.

A dispute was raised by the union. But the attempts of conciliation failed. The matter was sent to the Ministry of Labour, Government of India and ultimately the dispute has been referred to this Tribunal by the Ministry of Labour for adjudication.

3. The management has filed written objection contending inter-alia that the present workmen were surplus workers of the colliery. But the Company gave them some alternative job as time-rated worker instead of laying them off. Subsequently the service conditions were changed and they were asked to work as wagon loader. The workmen have been working as wagon loader for the last three years. So the question of regularising them as excavation mazdoor does not arise. The management has denied all the material averments made in the written statement of the union.

4. Admittedly all the workmen of this case were piece-rated workers of Damagoria Colliery. It has been contended by the union that the present workmen worked as excavation helper as time-rated worker from 1986—88 continuously and they had completed the period of 240 days in one calendar year (para 4 of the written statement of the union). But this has not been specifically denied. The management has contended that the present workmen were working as wagon loaders for the last three years. The same is also not denied.

Sri P. K. Das the Ld. Advocate for the management has urged before me with all force that practically it is a claim for promotion by piece-rated workers to the post of time-rated workers. He has urged before me that it is not a case of regularisation. It is a simple case of promotion. So they are to pass through the Departmental Promotion Committee. On the other hand Sri C. D. Dwevedi the Ld. Advocate for the union has cited before me the case reported in A.I.R. 1988 (S.C.) page 1683 to show that regularisation is not a case of promotion.

Considering the materials on record and the facts and circumstances I find that the present workmen had continuously worked for 240 days in a particular calendar year as time-rated workers. In Annexure-B of the rejoinder of the union the norms for converting piece-rated workers to time-rated workers have been mentioned. It is a part of a Circular. The relevant portion reads as follows :

"Conversion of PR workers to TR workers—The present norms of conversion from PR to TR is continuous service for 3 years in the substantive post with the minimum attendance of 190/240 days. (i.e. and 75% respectively)."

It appears from the materials on record that the management has regularised a good number of workers as time-rated from piece-rated workers on the basis of that principle. But they did not do so in the case of the present workmen. So considering all the materials on record and the facts and circumstances I am unable to look eye to eye with the

submissions made by Sri P. K. Das, I.C. Lawyer of the management. I find that in the instant case the social and natural justice have been denied to the present workmen and the management did not follow the norms.

5. In the result I find that the action of the management of Damagoria Colliery in not regularising the concerned workmen (as named in the schedule of Reference) as time-rated workers and thereby depriving them from their legitimate claims is not justified. The following workmen shall be deemed to have been regularised from the date when they were deployed as time-rated workers and will also get all consequential benefits from the date of regularisation :

1. Agharilal Chowhan
2. Buluram Satnami
3. Kashiram Santnami
4. Kamalsai Satnami
5. Bharat Mahato
6. Shivram Mahara
7. Tijram Chowhan
8. Norika Bouri.

This is my award.

N. K. SAHA, Presiding Officer

List of workmen

1. Agharilal Chowhan
2. Buluram Satnami
3. Kashiram Santnami
4. Kamalsai Satnami
5. Bharat Mahato
6. Shivram Mahara
7. Tijram Chowhan
8. Norika Bouri.

Part of the Award.

नई दिल्ली, 30 जुलाई, 1993

का. आ. 1756 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुग्रह में केन्द्रीय सरकार माध्यवर्ष कोनरारी आफ मैसर्स इमो प्ल के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्विट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आमनोल के पंचपट को प्रकाशित करते हैं, जो केन्द्रीय सरकार को 28-7-93 को प्राप्त हुयी थी।

[संख्या प्ल-22012/61/91-आदेशार (सौ-2)]

राजा लाल, डैम्प अधिकारी

New Delhi, the 30th July, 1993

S.O. 1756.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Madhavpur Colliery of M/s. E.C. Itd. and their workmen, which was received by the Central Government on 28-7-93.

[No. L-22012/61/91-IR(C-II)]
RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 29/91

PRESENT :

Shri N. K. Saha, Presiding Officer.

PARTIES :

Employers in relation to the Management of Madhavpur Colliery, Kajora Area of M/s. E.C. Ltd.

AND

Their workmen.

APPEARANCES :

For the Employers—Sri P. Banerjee, Advocate.

For the Workman—None.

INDUSTRY : Coal.

STATE : West Bengal

Dated, the 29th June, 1993

AWARD

The Government of India, in the Ministry of Labour in exercise of the powers conferred on them by Clause (d) of sub-section (1) sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012/61091-IR(C-II) dated the 29th July, 1991.

SCHEDULE

"Whether the action of the management of Madhavpur Colliery of M/s. ECL, P.O. Kajoragram, Dist. Burdwan in dismissing Behari Kumhar Trammer w.e.f. 12-8-87 is justified ? If not, to what relief is the concerned workman entitled?"

2. The case of the union in brief is that the concerned workman Behari Kumhar was a Trammer of Madhavpur Colliery under M/s. Eastern Coalfields Ltd. He fell ill from 13-7-85 due to various ailments for which he was forced to remain absent for a long time and he was under medical treatment during that period. After recovery from illness he approached the management with medical certificate for allowing him to join his duty. But the management served him an order of dismissal dated 12/17-8-87. It was learnt that the management issued a chargesheet on the ground of ill conduct. Then the workman without challenging the dismissal order and without raising any dispute made an appeal to the General Manager of the Area for his reinstatement, but to no effect. The entire absence of the workman was on medical ground. The enquiry if any held by the management was exparte and without giving any fair and reasonable opportunity to the workman to defend his case.

The workman raised dispute through his union. But the attempts of conciliation failed. The matter was sent to the Ministry of Labour, Government of India and ultimately the dispute has been referred to this Tribunal for adjudication.

In this case the management has filed written objection contending inter-alia that the contesting union has no representative character and locus-standi to raise the dispute on behalf of the workman. The workman was granted leave from 10-8-1985 to 16-8-1985. But he did not join his duty after expiry of the leave. He did not take any permission from the competent authority and did not send any information about the absence. So the workman was chargesheeted on 19/21-9-85. On 23-9-85 he submitted a written reply stating that he could not join his duty from 17-8-85 to 19-9-85. No medical report was submitted by him. The workman did not join his duty even after 19-10-85. Naturally he was served with second chargesheet for unauthorised and habitual absence. Reminders were sent to him but no reply was received. Then a domestic enquiry was held and on the basis of the result of that domestic enquiry he was dismissed from service. There was no irregularity in the domestic enquiry.

4. At the very outset Sri P. Banerjee the learned Advocate for the management has urged before me that the contesting union has no representative character and locus-standi to raise the dispute. The management has taken that plea in the written statement at the very initial stage. But the union has not produced any evidence either oral or documentary to prove that the union has the locus-standi and representative character. In such circumstances I find that the union has no locus-standi and representative character to raise the dispute.

Be that as it may, I find that it is a Reference against order of dismissal by the management. Under the provisions of Section 2-A of the Industrial Dispute Act the workman has the right to raise a dispute independently. Considering the provisions of law it should be presumed that it is a dispute which has been raised by the workman himself and as such I find that the present Reference is maintainable.

5. Admittedly the workman was absent from duty from 13-7-85. It appears that the management held a domestic enquiry against the concerned workman for his unauthorised absence for a period of more than two years and on the basis of that domestic enquiry he was dismissed from service. It has been contended from the side of the workman that he was absent due to his illness. But in this case the workman has failed to produce any document to show that he was ill at the relevant time. It may be noted that the workman has also not examined himself in this case.

6. So considering all the materials and the facts and circumstances I find that there is no wrong in the order of dismissal passed by the management on the basis of domestic enquiry.

7. In the result I find that the action of the management in dismissing the concerned workman Behari Kumhar was justified. He is not entitled to get any relief in this case.

N. K. SAHA, Presiding Officer

नई दिल्ली, 23 जून 1993

का. आ. 1757--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्यरूप में, केन्द्रीय सरकार, मै. भारत कोकिंग कॉल लिमि. की बुरागढ़ कोलियरी के प्रवंधनतंत्र के मंत्रद्वारा नियोजकों और उनके कर्मकारों के बीच, अनन्तर में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (वं. 2) धनबाद के पंचपट को प्रकाशित करते हैं, जो केन्द्रीय सरकार को 26-7-93 को प्राप्त हुआ था।

[सं.प्रा. 20012/76/91-प्राई आर (कोल-1)]

एच.सी. गोड़, ईस्क अधिकारी

New Delhi, the 28th July, 1993

S.O. 1757. --In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Burragarh Colliery of M/s. BCCL and their workmen which was received by the Central Government on 26-7-1993.

[L-20012/76/91-IR(Coal-I)]
HARISH GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 137 of 1991

PARTIES:

Employers in relation to the management of Burragarh Colliery of M/s. B.C.C.L. and their workmen.

APPEARANCES :

On behalf of the workmen : Shri B. Lal, Advocate and Shri D. K. Verma, Advocate.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar. INDUSTRY : Coal.

Dated, Dhanbad, the 16th July, 1993

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/76/91-I.R. (Coal-I), dated, the 11th October, 1991.

SCHEDULE

"Whether the action of the management of Burragarh Colliery of M/s. Bharat Coking Coal Ltd. in dismissing Shri Bhagwan Das, Miner/Loader from service w.e.f. 21/24-5-90 is justified? If not, to what relief is the workman entitled?"

2. Shri Bhagwan Das is the concerned workman who had been working as Miner/loader but on account of certain misconduct he was dismissed with effect from 21/24-5-90.

3. It was the case of the workmen that he had been working as permanent miner/loader at Burragarh Colliery since long time but all of a sudden he was chargesheeted vide chargesheet dt. 8-9-1988 alleging therein that his actual name was Dudhnath Sao whereas he had entered into the service in the name of Bhagwan Das after assuming false name and parentage. The concerned workman denied the allegation and thereafter a domestic enquiry was held and the Enquiry Officer held the concerned workman guilty of the charges. At this stage it may be mentioned that the domestic enquiry has already been held to be fair and proper. The workman has prayed that the action of the management in dismissing him from service is not justified and he has claimed his reinstatement with full back wages.

4. The management on the other hand has alleged that the real name of the concerned workman was Dudhnath Sao son of Gopal Sao, but he surreptitiously entered into the services of the management in the name of Bhagwan Das son of Gopal Das. As soon as the matter was detected the management issued chargesheet dt. 8-9-1988. The concerned workman submitted reply to the chargesheet which was found not satisfactory giving rise to the commencement of domestic enquiry. It was submitted that since the concerned workman had assumed false name he was guilty of the misconduct as given out in the charge sheet. It has been proved that the order of dismissal already passed and the action of the management was quite justified and the concerned workman is not entitled to any relief.

5. In the circumstances, of the case the question for consideration is as to whether the action of the management in dismissing the concerned workman was justified or not?

6. Shri Bhaewan Das son of Gopal was issued chargesheet dt. 8-9-1988 (Ext. 5) for committing misconduct under clause 17(i)(a) and (c) of the Model Standing Orders of the Coal Mining Industry which reads as follows :—

"17(i)(a) Theft, fraud or dishonesty in connection with Company's business or property.

(e) Giving false information regarding own's name, age, father's name, qualification or previous service at the time of employment."

7. There was an allegation against the concerned workman that his real name was Dudhnath Sao son of late Gopal Sao. But he entered into the service of the company in the name of Bhagwan Das by impersonating another man and also by giving false information about his name and parentage. The chargesheet was issued to the concerned workman by Shri A. K. Lal. Supt. of Mines, Burragarh Colliery. The very opening line of the chargesheet speaks that it has been brought to the notice that your name is Shri Dudhnath Sao. The question arises as to who brought out to the notice of the management? Who was the informer? Nothing has been disclosed in the chargesheet. Certainly there is a photo copy of the FIR vide Jharia P. S. Case No. 0594/88 under Section 419/420/465/467/120B of the I.P.C. which was registered on the statement of Shri P. N. Ram Officer-in-charge Jharia P.S. It was registered against several persons. General allegation was that the accused person of that case including the concerned workman had obtained employment in the BCCL by cheating and impersonation. The name of Bhagwan Das appears at Sl. No. 13 of the FIR. There was allegation against the concerned workman that his real name was Dudhnath Sao but he has been working in the colliery in the name of Bhagwan Das in collusion with the BCCL Officials. The allegation did not disclose as to how the Officer-in-charge came to know this fact. Whether he visited the village where Bhagwan Das was residing in Village Gonia Chhapra, P.S. Bairia in the district of Balia. Whether he got this information from any other statutory document? The FIR conspicuously is silent on this point. From the enquiry proceeding and the report it transpires that the management wanted to examine Shri Ram the then Officer-in-Charge, Jharia, P.S. as witness and a number of adjournments were also given for the purpose. The proceeding dt. 20-9-1989 shows that the Inspector Shri Ram was posted at Nirora in those days but he could not be examined inspite of a good number of adjournments in the enquiry.

8. In the domestic enquiry two witnesses including the Presenting Officer were examined on behalf of the management. They simply stated about the allegation against the concerned workman. They did not state anything if they had any specific knowledge about the name and parentage of the concerned workman. They did not disclose their source of information or their knowledge. I find that their statement merits no consideration for it was not based upon their personal knowledge or any other reliable document. The management also wanted to examine two more witnesses namely Shri R. N. Srivastava, O.C. Burragarh T.O.P. and Shri S. D. Dubey, ASI Jharia but they also did not turn up inspite of several adjournments.

9. The statement of the concerned workman was also recorded where in he asserted that he was Bhagwan Das and not Dudhnath Sao and had been working in BCCL since 1973-74 as casual he was made permanent in the year 1981. He emphatically denied that his real name was Dudhnath Sao. He was asked to produce necessary certificate to prove that he was Bhagwan Das but he expressed his inability and stated that he had already submitted this certificate at the time of his initial appointment. Certainly he had produced photo copy of the residential certificate duly granted by the District Magistrate, Balia, Ext. 11. The certificate was to the effect that Bhagwan Das son of Gopal Das was a resident of village Gonia Chhapra, P.S. Bairia, District Balia by birth. The concerned workman could not produce its original. The question is if the management had any doubt about the authenticity of this document the necessary correspondence ought to have been made with the office of the District Magistrate, Balia before passing any order of dismissal. The certificate at least goes to show that there was a man named Bhagwan Das son of Gopal Das in village Gonia Chhapra. If the concerned workman was not a real then real Bhagwan Das must be in the village Gonia Chhapra and he ought to have been enquired into and/or examined. On the basis of simple FIR the management, in my opinion, acted beyond jurisdiction in dismissing the concerned workman. Further we have no knowledge as to what happened to the Jharia P.S. Case as referred to above. I am to hold that the management had no sufficient materials either to issue chargesheet or to pass any order of dismissal. Hence the order of dismissal dt. 24-5-90 is set aside and the concerned workman is direct-

ed to be reinstated in his original job. The management is directed to reinstate the concerned workman with full back wages from the date of his dismissal to the date of his reinstatement with all consequential benefits within one month from the date of publication of the Award.

This is my Award.

B. RAM, Presiding Officer

नई दिल्ली, 28 जूनाई, 1993

का.आ. 1758—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) को धारा-1 को उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1-६-1993 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 धारा 44 और 45 के मिलाय जो पहले ही प्रवत्त की जा चुकी है। (और अध्याय-5 और 6) धारा-76 की उपधारा (1) और धारा 77, 78, 79 और 91 के मिलाय जो पहले ही प्रवत्त की जा चुकी है) के उपबन्ध केरल राज्य के निम्ननिवित क्षेत्र में प्रवत्त होंगे, अर्थात्:—

“जिना कोट्टायम के वेयकोम तालुक में राजस्व प्राम मलाकुलम के अन्तर्गत आनंदनि जिल्ला”।

[सं.धा.न.स-38013/15/93-एस.एम-1]

जे.पी. शुक्ला, अधर सचिव

New Delhi, the 28th July, 1993

S.O. 1758.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st August, 1993 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Kerala namely :—

“Area within the revenue village of Mulakulam in Vaikom taluk of Kottayam District.”

[No. S-38013/15/93-SS. II]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 28 जूनाई, 1993

का.आ. 1759.—कर्मचारी बीमा अधिनियम, 1948 (1948 का 34) की धारा 8 के अनुक्रम में तथा भारत सरकार, श्रम मंत्रालय की 26 जनवरी, 1991 के का, आ. सं. 232 से सम्बन्धित अधियूचना के अधिक्रमण में, केन्द्रीय सरकार एतद्वारा कर्मचारी राज्य बीमा निगम की स्थायी समिति का गठन करती है जिसमें निम्ननिवित सदस्य हैं अर्थात् —

अध्यक्ष

(धारा 8 के खण्ड (क) के अधीन केन्द्रीय सरकार द्वारा नियुक्त)

1. सचिव, भारत सरकार,
श्रम मंत्रालय,
नई दिल्ली

सदस्य

(धारा 8 के खण्ड (ख) के अधीन केन्द्रीय सरकार द्वारा नियुक्त)

2. अपर सचिव, भारत सरकार
श्रम मंत्रालय,
नई दिल्ली

3. विद्यीय सलाहकार,
श्रम पंत्रालय,
भारत सरकार,
नई दिल्ली

4. केन्द्रीय भविष्य निधि आयुक्त,
नई दिल्ली

(धारा 8 के खण्ड (ख) (य) के अधीन तीन राज्य सरकारों का प्रतिनिधित्व करने वाले नियम के सदस्य)

5. पश्चिम बंगाल सरकार का प्रतिनिधित्व करने वाले नियम का सदस्य।

6. तमिलनाडु सरकार का प्रतिनिधित्व करने वाले नियम का सदस्य।

7. गुजरात सरकार का प्रतिनिधित्व करने वाले नियम का सदस्य।

(धारा 8 के खण्ड (ग) के उप खण्ड (ii) के अधीन नियम द्वारा चयनित)

8. श्री ए. एम. कान्तियाल,
अध्यक्ष,
१. एम. कुमार इन्टरप्राइज (मिर्क्स), प्रा. लि.
निरंजन विलिंग, ९९-पैरीन ड्राइव,
बम्बई-४००००२

9. श्री पी. वी. दुगल,
ई-२२२-न्यु राजन्द्र नगर,
नई दिल्ली

10. श्री आर. एम. भण्डारी,
ए-२३१-न्यु फैन्डस कालीनी,
नई दिल्ली-११००६५

(धारा 8 के खण्ड (ग) के उपखण्ड (iii) के तहत नियम द्वारा चयनित)

11. श्री. जी. संजीवा नेइकी,
अध्यक्ष,
इन्टर-ग्रांथ प्रदेश
6/वी लाइट बरकतपुरा,
हैदराबाद-५०००२७

12. श्री रामभाऊ ई. जोशी,
३८-वासुदेव नगर,
इन्दौर-४५२००४

13. श्री जी. ई. चिट्टिनिस,
महासचिव,
एटक की महाराष्ट्र राज्य सभिति,
१७-डाल्ली विलिंग, डा. अम्बेडकर रोड,
पारेल नाका, बम्बई-४०००१२

(धारा 8 के खण्ड (ग), के उप खण्ड (iv) के अधीन नियम द्वारा चयनित)

14. डॉ. ए. जे. शेलाट,
२२५-ए-शिवाजी नगर,
एन. एम. जोशी मार्ग,
बम्बई

(धारा 8 के खण्ड (ग) के उप खण्ड (V) के अधीन नियम द्वारा चयनित)

15. श्री हराधन राय,
संसद सदस्य,
बी-१-मल्टीस्टोरी प्लैट्स,
बी. के. एम. मार्ग, नई दिल्ली

(धारा 8 के खण्ड (घ) के अधीन प्रदेश सदस्य)

16. महानिवेशक,
कमंचारी राज्य बीमा नियम,
नई दिल्ली

[सं० यू-१६०१२/४/९३-एस एस-१]

जे. पी. शुक्ला, प्रब्रह्म सचिव

New Delhi, the 28th July, 1993

S.O. 1759.—In pursuance of Section 8 of the Employees Insurance Act, 1948 (No. 34 of 1948) and in supersession of the notification of the Government of India in the Ministry of Labour No. S.O. 232 dated the 26th January, 1991, the Central Government hereby constitutes the Standing Committee of the Employees' State Insurance Corporation consisting of the following members; namely :

CHAIRMAN

[Appointed by the Central Government under clause (a) of Section 8]

1. Secretary to the Government of India,
Ministry of Labour,
New Delhi.

MEMBERS

[Appointed by the Central Government under clause (b) of Section 8]

2. Additional Secretary to the Government of India,
Ministry of Labour,
New Delhi.
3. Financial Adviser,
Ministry of Labour,
Government of India,
New Delhi.
4. Central Provident Fund Commissioner,
New Delhi.

[Members of the Corporation representing the three State Governments under clause (b) (b) of Section 8]

5. The Member of the Corporation representing the Government of West Bengal.

6. The Member of the Corporation representing the Government of Tamil Nadu.
7. The Member of the Corporation representing the Government of Gujarat.

[Elected by the Corporation under sub-clause (ii) of the clause, (c) of Section 8]

8. Shri A. S. Kasliwal,
Chairman,
M/s. S. Kumar Enterprises (Sunfabs) Pvt. Ltd.,
Niranjan Building, 99-Marine Drive,
Bombay-400002.
9. Shri P. B. Duggal,
E-222 New Rajinder Nagar,
New Delhi.

10. Shri R. M. Bhandari,
A-231 New Friends Colony,
New Delhi-110063.

[Elected by the Corporation under sub-clause (iii) of clause (c) of Section 8]

11. Shri G. Sanjeeva Reddy,
President,
INTUC-Andhra Pradesh,
6/B Light Barkatpura,
Hyderabad-500027.
12. Shri Rambhau D. Joshi,
38-Vasudev Nagar,
Indore-452004.
13. Shri G. V. Chitnis,
General Secretary,
Maharashtra State Committee of AITUC,
17-Delvi Buliding, Dr. Ambedkar Road,
Parel Naka, Bombay-400012.

[Elected by the Corporation under sub-clause (iv) of clause (c) of Section 8]

14. Dr. A. J. Shelat,
225-A Shivaji Nagar,
N.M. Joshi Marg,
Bombay.

[Elected by the Corporation under sub-clause (v) of clause (c) of Section 8]

15. Shri Hajadhan Roy,
Member of Parliament,
B-1 Multistorey Flats,
B. K. S. Marg, New Delhi-110001.

[Ex-Officio Member under Clause (d) of Section 8]

16. The Director General,
Employees' State Insurance Corporation,
New Delhi.

[No. U-16012/4/93-SS. II
J. P. SHUKLA, Under Secy.

नंदि किल्ली 30 जुलाई, 1993

का. आ. 1760—जब कि मैसर्स कैहीला लेब्रोट्रीज लि. 244 गोदासार, पोस्ट बाक्स नम्बर 9004 मानी नगर, अहमदाबाद-380050 तथा शाखाएं नई दिल्ली, बैंगलौर, मद्रास, वडोदा, अम्बर्ह तथा गांधी धाम। (इसके आगे यह प्रतिष्ठान के रूप में संबंधित है) कर्मचारी भविष्य निधि योजना 1952 (1952 की 19) (इसके आगे इसे योजना के रूप में संबंधित किया गया है) के अनुच्छेद 27 के अंतर्गत छूट के लिए आवेदन किया है।

और जबकि केन्द्रीय सरकार की राय है कि अंगदान की दर के संबंध में प्रतिष्ठान के भविष्य निधि नियम कर्मचारियों

के प्रति, उक्त अधिनियम के खंड 6 में विनिर्दिष्ट कर्मचारियों से, कम अनुकूल नहीं है वह कर्मचारियों को भविष्य निधि के अन्य लाभ भी मुलभ है जो समग्र रूप में कर्मचारियों के प्रति, उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (इसके बाद इसे योजना के रूप में संबंधित किया गया है) के अंतर्गत, इसी प्रकार के किसी अन्य प्रतिष्ठान के कर्मचारियों को प्राप्त लाभों से, कम अनुकूल नहीं है।

अतः अथ, केन्द्रीय सरकार उक्त योजना के अनुच्छेद 27-क के अंतर्गत प्रदत्त अमित्यों का प्रयोग करते हुए और संलग्न अनुसूची में विनिर्दिष्ट भत्तों के आधार पर एतद्वारा उक्त प्रतिष्ठान के प्रबंधकीय वर्ग से संबंधित कर्मचारियों को उक्त योजना के सभी उपबंधों के प्रवर्तन से छूट प्रदान करती है।

अनुसूची

1. उक्त स्थापना से संबंधित नियोक्ता, उक्त अधिनियम की क. भ. नि. योजना, 1952 के पैरा 27क के अंतर्गत केन्द्र सरकार द्वारा समय-समय पर दिये गये निवेश के अनुमार निरीक्षण के लिये सुविधायें प्रवान करेगा और ऐसे निरीक्षण प्रभार की अवायारी प्रत्येक माह की समाप्ति के 15 दिन के भीतर करेगा।

2. इस प्रतिष्ठान की भविष्य निधि नियमावली के अंतर्गत देय अंगदान की दर, किसी गैर-छूट प्राप्त प्रतिष्ठान के संबंध में उक्त अधिनियम और इसके अंतर्गत बनायी गयी योजना के अंतर्गत देय दर से कम नहीं होगा।

3. अप्रियम के संबंध में, छूट प्राप्त प्रतिष्ठान की योजना कर्मचारी भविष्य निधि योजना, 1952 से कम लाभदायक नहीं होनी चाहिए।

4. उक्त योजना में कोई भी संशोधन, जो प्रतिष्ठान के विद्यमान योजना की तुलना में कर्मचारियों के लिये ज्यादा लाभदायक है, स्वतः ही प्रतिष्ठान पर लाग हो जायेगी। उक्त प्रतिष्ठान के भविष्य निधि नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त की पूर्व स्वीकृति के बिना नहीं किया जायेगा तथा जब किसी संशोधन के द्वारा उक्त प्रतिष्ठान के कर्मचारियों के हिस्तों के प्रभावित होने की संभावना हो, स्वीकृति देने के पूर्व क्षेत्रीय भविष्य निधि आयुक्त कर्मचारियों को अपने दृष्टिकोण प्रस्तुत करने का समुचित समय देंगे।

5. उन सभी कर्मचारी (उक्त अधिनियम की धारा 2(च) में यथा परिभाषित) जो यदि स्थापना को छूट न दी गयी होती तो वे भविष्य निधि के सदस्य बनने के पात्र होते, को सदस्य बनाया जायेगा।

6. यदि कोई कर्मचारी, जो कर्मचारी भविष्य निधि (सांविधिक) या किसी अन्य छूट प्राप्त प्रतिष्ठान के भविष्य निधि का पहले से ही सदस्य है, उक्त प्रतिष्ठान में नियोजित होता है तो नियोक्ता जो उसे भत्ताकाल ही मद्द्य के रूप में नामांकित करना होगा तथा उसके पूर्ववर्ती नियोक्ता के पास उम कर्म-

चारी की जमा भविष्य निधि की राशि को अंतरित करवाकर उराके खातों में यह राशि जमा करवाने की व्यवस्था करनी होगी।

7. नियोक्ता, केन्द्रीय भविष्य निधि आयुक्त अथवा केन्द्रीय सरकार, जैसा भी हो, द्वारा समय-समय पर दिये गये निवेशों के अनुसार भविष्य निधि के प्रवंधन के लिए न्यासी बोर्ड का गठन करेगा।

8. भविष्य निधि न्यासी बोर्ड के पास जमा रहेगी जो अन्य खातों के साथ-साथ भविष्य निधि में प्राप्तियों का उचित हिसाब-किताब तथा उसमें से किए गए भुगतानों तथा उनके पास शेष धनराशि के लिए कर्मचारी भविष्य निधि संगठन के प्रति उत्तरदायी एवं जवाबदेह होगा।

9. न्यासी बोर्ड की प्रत्येक तिमाही में एक बार बैठक होगी तथा बोर्ड, केन्द्रीय सरकार/केन्द्रीय भविष्य निधि आयुक्त अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा भग्य-समय पर जारी किये गये दिवान-निवेशों के अनुसार कार्य करेगा।

10. न्यासी बोर्ड द्वारा बनाए गए भविष्य निधि खातों की एक योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वर्ष में एक बार लेखा परीक्षा की जाएगी। जहां आवश्यक समझा जाए, केन्द्रीय भविष्य निधि आयुक्त को किसी अन्य योग्य लेखा परीक्षक द्वारा खातों की पुनः लेखा परीक्षा करवाने का अधिकार होगा और उस पर आए व्यव्योम को नियोजित द्वारा बहन किया जाएगा।

11. प्रत्येक लेखा वर्ष के लिए प्रतिष्ठान की लेखा-परीक्षित तुलन पत्र के साथ लेखा-परीक्षित वार्षिक भविष्य निधि खातों की एक वित्तीय वर्ष के समाप्त होने के पश्चात् छ: भविष्य के भीतर क्षेत्रीय भविष्य निधि आयुक्त को प्रस्तुत की जाएगी।

इस प्रयोग्यार्थ भविष्य निधि का वित्तीय वर्ष 1 अप्रैल से 31 मार्च तक होगा।

12. नियोजक स्वयं तथा कर्मचारियों द्वारा देय भविष्य निधि के अंशदान को प्रत्येक उस माह से अगले माह की 15 तारीख तक न्यासी बोर्ड को अन्तरित कर देगा जिसमें अंगतान देय होता है। नियोजक अंशदान की आवश्यकी में किए गए किसी विलम्ब के लिए न्यासी बोर्ड को उसी तरह से क्षतिपूर्ति करेगा जिस तरह से उन्होंने परिस्थितियों में एक छूट-प्राप्त प्रतिष्ठान करता है।

13. न्यासी बोर्ड धन को सरकार द्वारा समय-समय पर दिए जाने वाले निवेशों के अनुसार भिधि में निवेशित करेगा। न्यासी बोर्ड के नाम से प्रतिभूति ली जाएगी और उसे भारतीय रिजर्व बैंक के जमा-खाता नियंत्रण लेखे के अधीन एक अनुसूचित बैंक के अधिकार में रखा जाएगा।

14. न्यासी बोर्ड सरकार द्वारा दिए गए निवेशों के अनुसार निवेश न करने पर केन्द्रीय भविष्य निधि आयुक्त अथवा उसके प्रतिनिधि द्वारा यथा आरोपित अधिशुल्क को शक्त करने के लिए पूरी तरह से और संयुक्त रूप से उत्तरदायी होगा।

15. न्यासी बोर्ड कर्मचारियों के लिये कम से एक रजिस्टर रखेगा और व्याज को सामयिक वसूली सुनिश्चित करेगा।

16. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किया गया अंशदान, निकाली गई राशि एवं उस पर व्याज को दर्शने के लिए एक विस्तृत लेखा रखेगा।

17. बोर्ड प्रत्येक वित्तीय/लेखा वर्ष के समाप्त होने के छह माह के अन्दर प्रत्येक कर्मचारी के लिए एक वार्षिक लेखा विवरण जारी करेगा।

18. बोर्ड वार्षिक लेखा विवरण जारी करने के बजाए प्रत्येक कर्मचारी को पास बुक जारी करेगा। वे पास-बुक कर्मचारियों के अधिकार में रहेंगी और कर्मचारी द्वारा बोर्ड को प्रस्तुत करने पर अद्यतन कर दी जाएगी।

19. प्रत्येक कर्मचारी के खाते में प्रत्येक लेखा वर्ष के पहले दिन अथवेष में उसी दर से व्याज की गणना की जाएगी जो न्यासी बोर्ड द्वारा निश्चित किया जाएगा किन्तु वह उक्त योजना के पैरा 60 के प्रधीन केन्द्रीय सरकार द्वारा घोषित किए गए दर से कम नहीं होगा।

20. यदि न्यासी बोर्ड निवेश से कम लाभ प्राप्त होने अथवा किसी अन्य कारण से केन्द्रीय सरकार द्वारा घोषित को गई दर पर व्याज देने में असमर्थ है, तो उसकी कमीतयोजक द्वारा पूरी की जाएगी।

21. नियोजक चौरी, धोखाधड़ी, गवन, दुरुपयोग अथवा किसी अन्य कारण से भविष्य निधि को होने वाले किसी अन्य धारे को भी पूरा करेगा।

22. गिरीजन और न्यासी बोर्ड भी केन्द्रीय सरकार/केन्द्रीय भविष्य निधि आयुक्त द्वारा समय-समय पर यथा निर्धारित विवरणियां क्षेत्रीय भविष्य निधि आयुक्त को भेजेंगे।

23. यदि ऐसे मामलों में, जिनमें उपरोक्त योजना के पैरा 69 के तहत निधि से किसी कर्मचारी की सदस्यता समाप्त हो जाती है, प्रतिष्ठान की भविष्य निधि नियमावली में कर्मचारी के अंशदान को जब्त करने का प्रावधान है, तो न्यासी बोर्ड इस तरह से जब्त की गई धनराशि के लिए अलग से लेखा-जोखा रखेगा और केन्द्रीय भविष्य निधि आयुक्त के पूर्व-अनुमोदन पर यथा निर्धारित प्रयोजनों के लिए उसका उपयोग करेगा।

24. प्रतिष्ठान की भविष्य निधि नियमावली में निहित किसी बात के होते हुए भी सेवा निवृति अथवा किसी अन्य प्रतिष्ठान में रोजगार प्राप्त करने पर किसी व्यक्ति की भविष्य निधि की सदस्यता समाप्त होने पर पाया गया कि यदि प्रतिष्ठान की भविष्य निधि नियमावली के अंतर्गत अपर्वार्तित इत्यादि भविष्य निधि अंशदान दर संविधिक योजना के अंतर्गत दी गयी दर की तुलना में अनुकूल नहीं है तो उसका अन्तर नियोक्ता द्वारा बहने किया जायेगा।

25. खातों को सेवा करना, विवरणियां प्रस्तुत करना, सचित 'राशि' का अन्तरण इत्यादि सहित भविष्य निधि के

सभी प्रशासनिक खर्चे नियोक्ता द्वारा वहन किए जायेंगे।

26. नियोक्ता, समुचित प्राधिकारी द्वारा अनुमोदित तथा समय-समय पर यथा संशोधित भविष्य निधि नियमावली, उसकी प्रमुख बातों को उस भाषा में जो कि वहां पर अधिकांश कर्मचारियों द्वारा खोली जाती है के अनुवाद सहित, प्रतिष्ठान के नोटिस बोर्ड पर प्रवर्णित करेगा।

27. "समुचित सरकार" इस संबंध में प्रतिष्ठान को छूट जारी रखने के लिए कुछ और शर्तें निर्धारित कर सकती हैं।

28. यदि उक्त अधिनियम के अंतर्गत भविष्य निधि अंशदान की दर बढ़ायी जाती है तो कर्मचारी भविष्य निधि अंशदान को वर में समुचित बढ़ावा देंगे जिससे कि प्रतिष्ठान की भविष्य निधि योजना के अंतर्गत यह जाने वाले लाभ उक्त अधिनियम के अंतर्गत दिए गये लाभों से कम लाभकारी नहीं हों।

29. उपर्युक्त भागों में किसी का भी उल्लंघन होने पर छूट को रद्द किया जा सकता है।

[एस 5/35025/3/93-एसएस II]

जे. पी. मुकुला, अवर सचिव

New Delhi, the 30th July, 1993

S.O. 1760.—Whereas Messers Cadila Laboratories, Ltd., 244, Ghodasar, P.O. Box No. 9004, Maninagar, Ahmedabad-380050, and branches at New Delhi, Bangalore, Madras, Baroda, Bombay and Gandhidham (hereinafter referred to as the said establishment) has applied for exemption under para 27-A of the Employees' Provident Funds Scheme 1952 (19 of 1952) (hereinafter referred to as the said Scheme).

And whereas in the opinion of the Central Government the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character :

Now, therefore, in exercise of the powers conferred under para 27-A of the said Scheme and subject to the conditions specified in the Schedule annexed hereto the Central Government hereby exempts the employees belonging to the managerial class of the said establishment from the operation of all the provisions of the said Scheme.

SCHEDULE

1. The employer in relation to the said establishment shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under para 27-A of the E.P.F. Scheme 1952 of the said Act within 15 days from the close of every month.

2. The rate of contribution payable under the provident funds rules of the establishment shall at no time be lower than those payable under the said Act in respect of the un-exempted establishment and the said Scheme framed thereunder.

3. In the matter of advances, the scheme of the exempted establishments shall not be less favourable than the Employees' Provident Fund Scheme, 1952.

4. Any amendment to the said Scheme which is more beneficial to the employees than the existing rules of the establishment shall be made applicable to them automatically. No amendment of the rules of the Provident Fund of the said establishment shall be made without the previous approval

of the Regional Provident Fund Commissioner and where any amendment is likely to affect adversely the interest of the employees of the said establishment, the Regional Provident Fund Commissioner shall before giving his approval, give a reasonable opportunity to the employees to explain their points of view.

5. All employees (as defined in section 2(f) of the said Act who would have been eligible to become members of the Provident Fund had the establishment not been granted exemption shall be enrolled as members.

6. Where an employee who is already a member of the Employees' Provident Fund (Statutory) or a provident fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund and arrange to have the accumulations in the provident fund account of such employee with his previous employer transferred and credited to his account.

7. The employer shall establish a Board of Trustees for the management of the provident fund according to such directions as may be given by the Central Provident Fund Commissioner or by the Central Government, as the case may be, from time to time.

8. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees Provident Fund Organisation inter-alia for proper accounts of the receipts into and payments from the Provident Fund and the balances in their custody.

9. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner or any officer authorised by him.

10. The accounts of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary, the Central Provident Fund Commissioner shall have the right to have the accounts reaudited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

11. A copy of the audited annual provident fund accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted to the Regional Provident Fund Commissioner within six months after the close of the financial year. For this purpose the financial year of the provident fund shall be from the 1st of April to the 31st of March.

12. The employer shall transfer to the account of Trustees the contributions payable to the Provident Fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay damages to the Board of Trustees for any delay in payment of the contributions in the same manner as an un-exempted establishment is liable under similar circumstances.

13. The Board of Trustees shall invest the monies in the fund as per directions that may be given by the Government from time to time. The securities shall be obtained in the name of the Board of Trustees and shall be kept in the custody of a scheduled Bank under the Credit Control of the Reserve Bank of India.

14. Failure to make investments as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

15. The Board of Trustees shall maintain a scriptwise register and ensure timely realisation of interest.

16. The Board of Trustees shall maintain detailed accounts to show the contributions credited, withdrawal and interest in respect of each employee.

17. The Board shall issue an annual statement of accounts to every employee within six months of the close of financial/accounting year.

18. The Board may instead of the annual statement of accounts issue pass books to every employee. Those pass

book shall remain in the custody of the employees and will be brought up to date by the Board on presentation by the employees.

19. The accounts of each employee shall be credited with interest calculated on the opening balance as on the 1st day of the accounting year at such rate as may be decided by the Board of Trustees but shall not be lower than the rate declared by the Central Government under para 60 of the said Scheme.

20. If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on investment is less or for any other reason then the deficiency shall be made good by the employer.

21. The employer shall also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

23. The employer as well as the Board of Trustees shall submit such returns to the Regional Provident Fund Commissioner as the Central Government/Central Provident Fund Commissioner may prescribe from time to time.

23. If the Provident Fund rules of the establishment provide for forfeiture of the employees' contributions in cases where an employee ceases to be a member of the fund on the lines of para 69 of the said Scheme, the Board of Trustees shall maintain a separate account of the amounts so forfeited and may utilise the same for such purposes as may be determined with the prior approval of the Central Provident Fund Commissioner.

24. Notwithstanding anything contained in the Provident Fund Rules of the establishment, if on the cessation of any individual from the membership of the fund consequent on retiring from service or on taking up the employment in some other establishment, it is found that the rate of contribution rate of forfeiture etc., under the P.F. Rules of the establishment are less favourable as compared to those under the statutory Scheme, the difference shall be borne by the employer.

25. The employer shall bear all the expenses of the administration of the Provident Fund including the maintenance of accounts, submission of returns, transfer of accumulations.

26. The employer shall display on the notice board of the establishment, a copy of the rules of the fund as approved by the appropriate authority and as and when amended thereto alongwith translation of the salient points thereof in the language of the majority of the employees.

27. The "appropriate Government" may lay down any further conditions for continued exemption of the establishment.

28. The employee shall enhance the rate of provident fund contributions appropriately if the rate of provident fund contribution is enhanced under the said Act so that the benefits under the Provident Fund Scheme of the establishment shall not become less favourable than the benefits provided under the said Act.

29. The exemption is liable to be cancelled for violation of any of the above conditions.

[No. S-35025/3/93-SS-II]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 2 अगस्त, 1993

का.प्रा. 1761.—जनकि मैसर्स एम आर एफ लिमिटेड ग्रामज रोड मध्यास-600006 ने (इसके आगे यह प्रतिष्ठान के रूप में संदर्भित है) कर्मचारी भविष्य निधि योजना 1952, (1952 की 19) (इसके आगे इसे योजना के रूप में संदर्भित किया गया है) के अनुच्छेद 27-के अंतर्गत छूट के लिए आवेदन किया है।

और यद्यकि केन्द्रीय गरनार नी राय है कि अंशकान की दर के संबंध में प्रतिष्ठान के भविष्य निधि नियम कर्मचारियों के प्रति, उक्त अधिनियम के बंद 6 में विनिर्दिष्ट कर्मचारियों रो, कम अनुकूल नहीं हैं व कर्मचारियों को भविष्य विधि के अन्य लाभ भी सुनाम हैं जो समग्र रूप से कर्मचारियों के प्रति, उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (इसके बाद इसे योजना के रूप में संदर्भित किया गया है) के अंतर्गत, इसी प्रकार के किसी अन्य प्रतिष्ठान के कर्मचारियों को प्राप्त नाभां में, कम अनुकूल नहीं है।

अतः ग्रब केन्द्रीय सरकार उक्त योजना के अनुच्छेद 27-के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, और संलग्न अनुसूची में विनिर्दिष्ट शर्तों के आधार पर एतद्वारा उक्त प्रतिष्ठान के अधिकारी वर्ग में संवधित कर्मचारियों को उक्त योजना के मध्ये उपबंधों के प्रदत्तन से छूट प्रदान करती है।

अनुसूची

1. उक्त स्थापन में संवधित नियोक्ता, उक्त अधिनियम की क.भ.नि. योजना, 1952 के पैरा 27के अंतर्गत केन्द्र सरकार द्वारा समय-समय पर दिये गये निवेश के अनुसार निरीक्षण के लिये सुविधायें प्रदान करेशा और ऐसे निरीक्षण प्रभार की आदायगी प्रत्येक माह की समाप्ति के 15 दिन के भीतर करेगा।

2. इस प्रतिष्ठान की भविष्य निधि नियमावली के अंतर्गत देश अंशकान की दर, किसी गैर छूट प्राप्त प्रतिष्ठान के संबंध में उक्त अधिनियम अंतर इसके अंतर्गत बनायी गयी योजना के अंतर्गत देश दर से कम नहीं होगा।

3. अग्रिम के संबंध में, छूट प्राप्त प्रतिष्ठान की योजना कर्मचारी भविष्य निधि योजना, 1952 से कम लाभदायक नहीं होनी चाहिये।

4. उक्त योजना में कोई भी संशोधन, जो प्रतिष्ठान के विद्यमान योजना की तुलना में कर्मचारियों के लिये ज्यादा लाभदायक है, स्वतः ही प्रतिष्ठान पर लागू हो जायेगी। उक्त प्रतिष्ठान के भविष्य निधि नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त की पूर्व स्वीकृति के बिना नहीं किया जायेगा तथा जब किसी संशोधन के द्वारा उक्त प्रतिष्ठान के कर्मचारियों के हितों के प्रभावित होने की संभावना हो, स्वीकृति देने के पूर्व क्षेत्रीय भविष्य निधि आयुक्त कर्मचारियों को घपने दृष्टिकोण प्रस्तुत करते का समुचित समय देंगे।

5. उन सभी कर्मचारी (उक्त अधिनियम की धारा 2(च) में यथा परिभाषित) जो यदि स्थापन को छूट न दी गयी होती तो वे भविष्य निधि के सदस्य बनने के पास होते, को सदस्य बनाया जायेगा।

6. यदि कोई कर्मचारी, जो कर्मचारी भविष्य निधि (सार्विक) या किसी अन्य छूट प्राप्त प्रतिष्ठान के भविष्य निधि का पहले से ही सदस्य है, उक्त प्रतिष्ठान में नियोक्ता होता है तो नियोक्ता को उसे तत्काल ही सदस्य के रूप में

नामांकित करना होगा तथा उसके पूर्ववर्ती नियोक्ता के पास उस कर्मचारी की जमा भविष्य निधि की राशि को अंतरित करवाकर उसके खाते में यह राशि जमा करनाने की व्यवस्था करनी होगी।

7. नियोक्ता, केन्द्रीय भविष्य निधि आयुक्त ग्रथवा केन्द्रीय सरकार, जैसा भी हो, द्वारा समय-समय पर दिये गये निर्देशों के अनुसार भविष्य निधि के प्रबंधन के लिए न्यासी बोर्ड का गठन करेगा।

8. भविष्य निधि न्यासी बोर्ड के पास जमा रहेगी जो अन्य खातों के साथ-साथ भविष्य निधि में प्राप्तियों का उचित हिसाब किताब तथा उसमें से किए गए भुगतानों तथा उनके पास शेष धनराशि के लिए कर्मचारी भविष्य निधि संगठन के प्रति उत्तरदायी एवं जवाबदेह होगा।

9. न्यासी बोर्ड की प्रत्येक तिमाही में एक बार बैठक होगी तथा बोर्ड, केन्द्रीय सरकार/केन्द्रीय भविष्य निधि आयुक्त ग्रथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय-समय पर जारी किये गये दिशा-निर्देशों के अनुसार कार्य करेगा।

10. न्यासी बोर्ड द्वारा बनाए गए भविष्य निधि खातों की एक योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वर्ष में एक बार लेखा परीक्षा की जाएगी। जहां आवश्यक समझा जाए, केन्द्रीय भविष्य निधि आयुक्त को किसी अन्य योग्य लेखा परीक्षक द्वारा खातों की पुनः लेखा परीक्षा करनाने का अधिकार होगा और उस पर आए व्यवहार को नियोक्ता द्वारा वहन किया जाएगा।

11. प्रत्येक लेखा वर्ष के लिए प्रतिष्ठान की लेखा-परीक्षित सुलत पत्र के साथ लेखा-परीक्षित वार्षिक भविष्य निधि खातों की एक प्रति वित्तीय वर्ष के समाप्त होने के पांचात् छः महीने के भीतर क्षेत्रीय भविष्य निधि आयुक्त को प्रस्तुत की जाएगी।

इस प्रयोजनार्थ भविष्य निधि का वित्तीय वर्ष 1 अप्रैल से 31 मार्च तक होगा।

12. नियोजक स्वयं तथा कर्मचारियों द्वारा देय भविष्य निधि के अंशदान को प्रत्येक उस माह से अगले भाव की 15 नारीख तक न्यासी बोर्ड को अन्तर्गत कर देगा जिसमें अंशदान देय होता है। नियोजक अंशदान की अदायगी में किए गए किसी विलम्ब के लिए न्यासी बोर्ड को उसी तरह में अतिपूर्ति करेगा जिस तरह से उन्होंने परिस्थितियों में एक छुट्टी प्राप्ति प्रतिष्ठान करता है।

13. न्यासी बोर्ड धन को सरकार द्वारा समय-समय पर दिए जाने वाले निर्देशों के अनुसार निधि में निवेशित करेगा। न्यासी बोर्ड के नाम से प्रतिभूति सी जाएगी और उस भारतीय रिजर्व बैंक के जमा-खाता नियंत्रण के अधीन एक अनुसूचित बैंक के अधिकार में रखा जाएगा।

14. न्यासी बोर्ड सरकार द्वारा दिए गए निर्देशों के अनुसार निवेश न करने पर केन्द्रीय भविष्य निधि आयुक्त ग्रथवा उसके

प्रतिनिधि द्वारा यथा आरोपित अधिष्ठात्र को अदा करने के लिए पूरी तरह से और संयुक्त रूप से उत्तरदायी होगा।

15. न्यासी बोर्ड कर्मचारियों के लिए त्रिम से एक रजिस्टर रखेगा और व्याज की रामयिक बगूली सुनिश्चित करेगा।

16. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किया गया अंशदान, निकाली गई राशि एवं उस पर व्याज को दणने के लिए एक विस्तृत लेखा रखेगा।

17. बोर्ड प्रत्येक वित्तीय/निष्ठा वर्ष के समाप्त होने के छह माह के अन्दर प्रत्येक कर्मचारी के लिए एक वार्षिक लेखा विवरण जारी करेगा।

18. बोर्ड वार्षिक लेखा विवरण जारी करने के बजाए प्रत्येक कर्मचारी को पासबुक जारी करेगा। वे पासबुक कर्मचारियों के अधिकार में रहेगी और कर्मचारी द्वारा बोर्ड को प्रस्तुत करने पर अद्यतन कर दी जाएगी।

19. प्रत्येक कर्मचारी के खाते में प्रत्येक लेखा वर्ष के पहले दिन अथशेष में उसी दर से व्याज की गणना की जाएगी जो न्यासी बोर्ड द्वारा निश्चित किया जाएगा किन्तु वह उक्त योजना के पैरा 60 के अधीन केन्द्रीय सरकार द्वारा घोषित किए गए वर्ष से कम नहीं होगा।

20. यदि न्यासी बोर्ड निवेश से कम लाभ प्राप्त होने अथवा किसी अन्य कारण से केन्द्रीय सरकार द्वारा घोषित की गई दर पर व्याज देने में असमर्थ है, तो उसकी कमी नियोजक द्वारा पूरी की जाएगी।

21. नियोजक बोर्ड, धोबाथडी, गजन, दृष्टप्रयोग ग्रथवा किसी अन्य कारण से भविष्य निधि को होने वाले किसी अन्य घाटे को भी पूरा करेगा।

22. नियोजक और न्यासी बोर्ड भी केन्द्रीय सरकार/केन्द्रीय भविष्य निधि आयुक्त द्वारा समय-समय पर यथा निधीरित विवरणियां धोत्रीय भविष्य निधि आयुक्त को भेजेगे।

23. यदि ऐसे मामलों में, जिनमें उपरोक्त योजना के पैरा 69 के तहत निधि से किसी कर्मचारी की सदस्यता समाप्त हो जाती है, प्रतिष्ठान की भविष्य निधि नियमावली में कर्मचारी के अंशदान को जब्त करने का प्रावधान है, तो न्यासी बोर्ड इस तरह से जब्त की गई धनराशि के लिए अलग गे लेखा-जोखा रखेगा और केन्द्रीय भविष्य निधि आयुक्त के पूर्व-अनुमोदन पर यथा-निधीरित प्रयोजनों के लिए उसका उपयोग करेगा।

24. प्रतिष्ठान की भविष्य निधि नियमावली में निहित किसी बात के होते हुए भी सेवा निवृत्ति ग्रथवा किसी अन्य प्रतिष्ठान में रोजगार प्राप्त करने पर किसी व्यक्ति की भविष्य निधि की सदस्यता समाप्त होने पर पाया गया कि यदि प्रतिष्ठान की भविष्य निधि नियमावली के अंतर्गत अपवर्तित इत्यादि भविष्य निधि अंशदान दर सांबिधिक योजना

के अंतर्गत दी गयी दर की तुलना में अनुकूल नहीं है तो उसका अन्तर नियोक्ता द्वारा बहन किया जायेगा।

25. खातों को तैयार करना, विवरणियां प्रस्तुत करना, संचित राशि का अन्तरण हस्तादि सहित भविष्य निधि के सभी प्रशासनिक घर्वे नियोक्ता द्वारा बहन किए जायेंगे।

26. नियोक्ता, समुचित प्राधिकारी द्वारा अनुभोदित तथा समय-समय पर यथा संशोधित भविष्य निधि नियमावली, उसकी प्रमुख बातों को उस भाषा में जोकि वहां पर अधिकांश कर्मचारियों द्वारा बोली जाती है के अनुवाद सहित, प्रतिष्ठान के नोटिस बोर्ड पर प्रदर्शित करेगा।

27. "समुचित सरकार" इस संबंध में प्रतिष्ठान को छूट जारी रखने के लिए कुछ और शर्तें निर्धारित कर सकती हैं।

28. यदि उक्त अधिनियम के अंतर्गत भविष्य निधि अंशदान की दर बढ़ायी जाती है तो कर्मचारी भविष्य निधि अंशवान की दर में समुचित वृद्धि करेगा जिससे कि प्रतिष्ठान को भविष्य निधि योजना के अंतर्गत दिए जाने वाले लाभ उक्त अधिनियम के अंतर्गत दिए गये लाभों से कम लाभकारी नहीं हों।

29. उपर्युक्त शर्तों में किसी का भी उल्लंघन होने पर छूट को रद्द किया जा सकता है।

[सं. एस.-35015/3/93-एसएस-II]

जे. पी. शुक्ला, अवार सचिव

New Delhi, the 2nd August, 1993

S.O. 1761.—M/s. M.R.F. Ltd., Greams Road, Madras-600006 (hereinafter referred to as the said establishment) has applied for exemption under para 27-A of the Employees' Provident Funds Scheme 1952 (19 of 1952) (hereinafter referred to as the said Scheme).

And whereas in the opinion of the Central Government the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character :

Now, therefore, in exercise of the powers conferred under para 27-A of the said Scheme and subject to the conditions specified in the Schedule annexed hereto the Central Government hereby exempts the employees belonging to the executive class of the said establishment from the operation of all the provisions of the said Scheme.

SCHEDULE

1. The employer in relation to the said establishment shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under para 27-A of the E.P.F. Scheme 1952 of the said Act within 15 days from the close of every month.

2. The rate of contribution payable under the provident funds rules of the establishment shall at no time be lower than those payable under the said Act in respect of the un-exempted establishment and the said Scheme framed thereunder.

3. In the matter of advances, the scheme of the exempted establishments shall not be less favourable than the Employees' Provident Fund Scheme, 1952.

4. Any amendment to the said scheme which is more beneficial to the employees than the existing rules of the establishment shall be made applicable to them automatically. No amendment of the rules of the Provident Fund of the said establishment shall be made without the previous approval of the Regional Provident Fund Commissioner and where any amendment is likely to affect adversely the interest of the employees of the said establishment the Regional Provident Fund Commissioner shall before giving his approval, give a reasonable opportunity to the employees to explain their points of view.

5. All employees (as defined in section 2(f) of the said Act who would have been eligible to become members of the Provident Fund had the establishment not been granted exemption shall be enrolled as members.

6. Where an employee who is already a member of the Employees' Provident Fund (Statutory) or a provident fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund and arrange to have the accumulations in the provident fund account of such employee with his previous employer transferred and credited to his account.

7. The employer shall establish a Board of Trustees for the management of the provident fund according to such directions as may be given by the Central Provident Fund Commissioner or by the Central Government, as the case may be, from time to time.

8. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Fund Organisation inter-alia for proper accounts of the receipts into and payments from the Provident Fund and the balances in their custody.

9. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner or any officer authorised by him.

10. The accounts of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary, the Central Provident Fund Commissioner have the right to have the accounts reaudited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

11. A copy of the audited annual provident fund accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted of the Regional Provident Fund Commissioner within six months after the close of the financial year. For this purpose the financial year of the provident fund shall be from the 1st of April to to the 31st of March.

12. The employer shall transfer to the appeal of Trustees the contributions payable to the Provident Fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay damages to the Board of Trustees for any delay in payment of the contributions in the same manner as an un-exempted establishment is liable under similar circumstances.

13. The Board of Trustees shall invest the monies in the fund as per directions that may be given by the Government from time to time. The securities shall be obtained in the name of the Board of Trustees fund shall be kept in the custody of a scheduled Bank under the Credit Control of the Reserve Bank of India.

14. Failure to make investments as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

15. The Board of Trustees shall maintain a scriptwise register and ensure timely realisation of interest.

16. The Board of Trustees shall maintain detailed accounts to show the contributions credited, withdrawal and interest in respect of each employee.

17. The Board shall issue an annual statement of accounts to every employee within six months of the close of financial/accounting year.

18. The Board may instead of the annual statement of accounts, issue Pass Books to every employee. Those pass book shall remain in the custody of the employees and will be brought up to date by the Board on presentation by the employees.

19. The accounts of each employee shall be credited with interest calculated on the opening balance as on the 1st day of the accounting year at such rate as may be decided by the Board of Trustees but shall not be lower than the rate declared by the Central Government under para 60 of the said Scheme.

20. If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on investment is less or for any other reason then the deficiency shall be made good by the employer.

21. The employer shall also make good any other loss that may cause to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

22. The employer as well as the Board of Trustees shall submit such returns to the Regional Provident Fund Commissioner as the Central Government/Central Provident Fund Commissioner may prescribe from time to time.

23. If the Provident Fund rules of the establishment provide for forfeiture of the employees' contributions in cases where an employee ceases to be a member of the fund on the lines of para 69 of the said Scheme, the Board of Trustees shall maintain a separate account of the amounts so forfeited and may utilise the same for such purposes as may be determined with the prior approval of the Central Provident Fund Commissioner.

24. Notwithstanding anything contained in the Provident Fund Rules of the establishment, if on the cessation of any individual from the membership of the fund consequent on retiring from service or on taking up the employment in some other establishment, it is found that the rate of contribution rate of forfeiture etc., under the P.F. Rules of the establishment are less favourable as compared to those under the statutory Scheme, the difference shall be borne by the employer.

25. The employer shall bear all the expenses of the administration of the Provident Fund including the maintenance of accounts, submission of returns, transfer of accumulations.

26. The employer shall display on the notice board of the establishment, a copy of the rules of the fund as approved by the appropriate authority and as and when amended thereto alongwith translation of the salient points thereof in the language of the majority of the employees.

27. The "appropriate Government" may lay down any further conditions for continued exemption of the establishment.

28. The employee shall enhance the rate of provident fund contributions appropriately if the rate of provident fund contribution is enhanced under the said Act so that the benefits under the Provident Fund Scheme of the establishment shall not become less favourable than the benefits provided under the said Act.

29. The exemption is liable to be cancelled for violation of any of the above conditions.

[No. S-35013/3/93-SS-II]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 29 जून 1993

का.आ.: 1762—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार वी. जी.एम.एल. के प्रबन्धसंत्र से संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण-कम-नेवर कोट

बंगलौर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-93 को प्राप्त हुआ था।

[संख्या एल-43011/11/89-आई-आर (विविध)]

वी.एम. डेविड, इंस्पेक्टर अधिकारी

New Delhi, the 29th July, 1993

S.O. 1762.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of B. G. M. I. and their workmen, which was received by the Central Government on 27-7-93.

[No. L-43011/11/89-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated this 22nd day of July 1993

PRESENT :

Shri M. B. Vishwanath, B. Sc., B. L., Presiding Officer
Central Reference No. 24/90

I Party

The President, B. G. Miners' Association, No. 545,
Oorgaum P. O., K. G. F. 563 120

V. S.

II Party

The Managing Director, Bharath Gold Mines Ltd.,
Oorgaum P. O., K. G. F. 563 120

AWARD:

In this reference made by the Hon'ble Central Government by its order No. L. 43011/11/89-IR (Misc.) dt. 4-4-90 under Sec. 10(2A)(1)(d) of I. D. Act the point for consideration as per schedule to reference is :

"Whether the action of the management of BGML, KGF, in not considering the cases of S/Sri B. A. David, P. E. No. 120383, V. Narasimhaiah, P. E. No. 129890, A. John, P. E. No. 129774 and E. Samson, P. E. No. 121389, clerical staff in 'C' grade in the Personnel Department of BGML for promotion is just'ed? If not, to what relief the employees concerned are entitled?"

2. In the claim statement it is contended :—

The four I party workmen are seniors to K. Meganathan and D. Albert who have been promoted to grade 'B'. When Meganathan and Albert were considered for promotion the four I party workmen were not considered for promotion. A notification dt. 24-2-88 was issued by the Asst. Personnel Manager to fill up the post of Head Sectional Clerk for Secretary's department. The post to which the advertisement was issued was filled up by promoting one Venkataramana as Head Sectional Clerk in the Secretary's department. To the great surprise of the I party workmen, Meganathan and Albert were also included in the panel for promotion in the 'B' grade and they were also promoted w.e.f. 1-4-89, though the notification was issued for only one post. The promotion of Meganathan and Albert is illegal. The four I party workmen had the requisite qualification for promotion to the general vacancy of 'B' grade, Head Sectional Clerk. The four I party workmen have been denied the promotion. There was no notification or advertisement issued to fill up the vacancies to Personnel Department. If a fresh advertisement had been issued to fill up the vacancies in the personnel department and if selection had been made the chances of these workmen for promotion were bright. Apart from the four workmen several others were also qualified to

be promoted to the post for which Meganathan and Albert were promoted. It is learnt that Shri Jayaram, who subsequently joined Kudremukh Iron Ore Co., Ltd., was interested in promoting them. The action of the II party in promoting Meganathan and Albert amounts to unfair labour practice. The 4 I party workmen are active trade unionists. The action of the II party in not considering the four I party workmen for promotion to the post of 'B' grade is illegal. II party has to be directed to promote them to the post of Head Sectional Clerk 'B' grade with retrospective effect and consequential benefits.

3. In the counter statement the II party contended that :—

It is not correct to say that Meganathan and Albert have been promoted to 'B' grade. They were selected in pursuance of the internal notification issued to fill up the post of Head Sectional Clerk. Venkataramana, the first candidate so selected, was posted to work in Secretary's department. Meganathan and Albert were kept in panel. They have been posted to work in Personnel Department mainly because of their qualification of Stenography which is required for senior officers. Normally the Seniority-cum-merit's the criteria for promoting employees from one grade to another grade. But in this case a special notification was released to select suitable candidates who possess the qualification of senior shorthand with a view to utilise them for stenography work since adequate number of persons with stenography qualification were not available for the department. The four I party workmen were not considered for interview since they did not apply for the post. They did not apply because they did not possess the qualification of shorthand which was the qualification prescribed as per notification. The selection of Meganathan and Albert is according to law and not arbitrary. There is no favouritism shown to these two persons. The selection and posting of these two persons was made in good faith. It is significant to note that the selection of these candidates has not been challenged by other candidates who attended the interview. This shows that the selection was fair and proper. Even if there was a separate advertisement to fill up the 'B' grade posts in the Personnel Department, the four I party workmen would not be eligible because they did not have stenography qualification. Since they knew that all the qualified candidates possessing stenography had applied for the post of Head Sectional Clerk when advertised in the Secretary's department, no fresh advertisement was issued for personnel department vacancies. The candidates found suitable (Meganathan and Albert) were selected and posted to personnel department. Meganathan and Albert were not promoted. They were selected. There were officials seniors to the four I party workmen. Granting for a moment that the four I party workmen were to be considered for promotion, there was no legal right in the four I party workmen because there were other seniors to them. There is no unfair labour practice. It is denied that the four workmen are active trade unionists. The selection of Meganathan and Albert was done on the basis of merit. The reference has to be rejected.

4. Since the point for adjudication was covered by the schedule to reference no separate issue was framed (see order sheet dt. 15-10-90).

5. On behalf of the II party M. W. 1 Sannamalige, Chief Personal Manager and M. W. 2 Mailharjuna Akki, Senior Asst. Manager (P) have been examined. On behalf of the I party workmen all the four got themselves examined.

6. Ex. M. 1 is the notification issued by the II party calling for the post of Head Sectional Clerk for Secretary's department. So far as selection and posting of Venkataramana is concerned, the I party workmen have no grouse. They have challenged the selection of Meganathan and Albert and posting them to Personnel department. As per Ex. M. 1 applications are invited from amongst clerk/typists in 'C' 'D' and 'D' grade who possess English Sr. typewriting and Sr. Shorthand qualifications. From Ex. M. 1 it is abundantly clear that the persons applying for the post should possess the qualifications English Sr. Typewriting and Sr. Shorthand. The I party workmen have not produced any recruitment rules framed by the II party showing the qualifications required for the post of Head Sectional Clerk. So we have to go by Ex. M. 1 alone. It bears repetition. Those applying for the post of Head Sectional Clerk as per Ex. M. 1 should possess the qualifications English Sr. Typewriting

1701 GI/93—7.

and Sr. Shorthand. M. W. 1 Sannamalige, Chief Personnel Manager of II party has clearly stated in his evidence that internal notification Ex. M. 1 was made because knowledge of stenography was required. It is true that he has stated on cross-examination that there is no rules to the effect that 'D' grade Head Sectional Clerk should know stenography. When there is no recruitment rule, we should look to Ex. M. 1 only.

7. W. W. 1 John, W. W. 2 Narasimhaiah, W. W. 3 Sampson and W. W. 4 David are the four workmen, at whose instance the reference has been made. W. W. 1 John has stated in his evidence before this Tribunal that he has not passed Sr. Shorthand. W. W. 2 Narasimhaiah has stated that he has passed only Jr. Shorthand. Obviously he has not passed Sr. Shorthand. W. W. 3 Sampson has stated that he does not know stenography and he does not possess the qualifications mentioned in Ex. M. 1. W. W. 4 David has stated in his evidence that he does not know Stenography and he does not possess the qualifications mentioned in Ex. M. 1. Even according to these four workmen, they do not possess one of the essential conditions, viz., Sr. Shorthand, to apply for the post of head sectional clerk in pursuance of Ex. M. 1. When they do not possess the qualifications mentioned in Ex. M. 1 to apply for the post advertised in Ex. M. 1, it cannot be said that the II party was not justified in not considering the cases of W. Ws. 1 to 4 for promotion in pursuance of Ex. M. 1.

8. It is true that the II party in pursuance of Ex. M. 1 selected Meganathan and Albert and posted them to the Personnel Department, though Ex. M. 1 shows only one vacancy and though Ex. M. 1 relates to the vacancy in the Secretary's department. But once again the question arises whether the present four workmen possess the qualification mentioned in Ex. M. 1. Admittedly they did not possess the qualification of Sr. Shorthand. It is significant to note that the persons who failed to get selected by the committee in pursuance of Ex. M. 1, have not challenged the selection of Meganathan and Albert. Another salient point which should be borne in mind is that the committee constituted by the II party to fill the vacancy in pursuance of the notification Ex. M. 1 has selected Albert and Meganathan. The I party workmen cannot be permitted to challenge the selection in the guise of promotion. As I see what is made in pursuance of Ex. M. 1 is purely a case of selection. The reference does not relate to the selection of Meganathan and Albert. Since the four workmen did not possess one of the required qualification, they cannot challenge the selection made though they were seniors to the persons selected in pursuance of Ex. M. 1.

9. M. W. 1 Sannamalige, Chief Personnel Manager speaks to the test given to the candidates before selecting them. He has stated in his evidence that there is no detailed procedure laid down for recruitment or promotion pertaining to this category and a few other categories. Since there is no recruitment rule, if the management has made selection in view of the exigencies of the situation, it won't be proper for the Tribunal to pick holes in the selection made by the committee.

10. The two workmen W. W. 1 and 2 have stated that the committee was legally constituted. W. W. 2 Narasimhaiah has stated that there are persons in his department who are seniors to him. Assuming for a moment that the selection made is improper, there is no guarantee that the present workmen would have been selected since there are seniors to them.

11. Ex. M. 33 is the interview rating chart prepared at the time of selecting Meganathan and Albert. Unfortunately it has not been signed by the Chairman. It is argued by the Learned Counsel for the I party workmen that Ex. M. 1 has prescribed qualifications deliberately with a view to favouring Venkataramana, Meganathan and Albert. Only one vacancy was advertised as per notification Ex. M. 1 and that too for the post in Secretary's department but two more persons were selected and posted to Personnel Department, and therefore, he submitted there was malafides in the selection. I agree that there is something more than meets the eye in the selection made. But so long as the hard fact that the four workmen did not possess Sr. Shorthand is there it won't be proper for this Tribunal to go beyond the scope of reference and convert the reference into a public interest litigation.

12. The Learned counsel for the I party workmen has produced certified copy of the order in W. P. No. 4104, 5516 and 4348/80 dt. 27-6-80. I have carefully and respectfully gone through the order passed by our Hon'ble High Court on the writ side. His Lordship the Hon'ble Mr. Justice S. Rajendra Babu has struck down the selection made for the posts of Accountants and Asst. Secretaries because the selections had been done not by the entire committee of members. His Lordship has struck down the selection because, "In the absence of any rules in regard thereto the law requires that all the members constituting the selection committee must be present and absence of even one of the members of such committee in any meeting or interview would vitiate the selection." This law has been laid down by our Hon'ble High Court on the writ side under Articles 226 and 227 of the Constitution. This Tribunal cannot exercise the powers under Article 226 and 227 of the Constitution and travel outside the reference.

13. The Learned counsel for the I party relied on 1990(3) S. S. C. 655 (District Collector and Chairman v/s. M. Tripura Sundari Devi). This was a case in which minimum qualification prescribed in the advertisement was a second class post-graduate degree. But inadvertently an applicant having a third class post-graduate degree was selected. So the selection was struck down by the Hon'ble Supreme Court.

14. The Learned counsel for the J party workmen relied on 1967 (1) L. L. J. 423 (Delhi Cloth and General Mills Company Ltd., v/s. Their workmen and others). I simply cannot understand how his authority helps the J party workmen. In fact the Supreme Court laid down in this authority that Tribunal is not free to enlarge the scope of the dispute referred to it but must confine its attention to the point specifically mentioned and anything which is incidental thereto. Since the I party workmen did not possess the required qualification mentioned in Ex. M. 1, it cannot be said that the point whether the selection made is malafide is incidental to the issue referred in the schedule to reference. To repeat, this Tribunal cannot enlarge the scope of the dispute referred to it.

15. All other documents and evidence not referred to by me are not relevant. In any case they do not alter my conclusions reached above.

16. For the aforesaid reasons the reference is rejected. Award passed rejecting the reference. Submit to Government.

M. B. VISHWANATH, Presiding Officer

नई दिल्ली, 30 जून, 1993

का.ग्रा. 1763 —आंदोलिक विदाव अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, छत्तीसगढ़ बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आंदोलिक विदाव में केन्द्रीय सरकार आंदोलिक अधिकरण, नं. 2, घनवाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-93 को प्राप्त हुआ था।

[संख्या एन-12012/125/91 गई भार बी-2]

श्री. के. वेणुगोपलन, ईस्ट विधायिका

New Delhi, the 30th July, 1993

S.O. 1763.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Disputes between the employers in relation to the

management of Allahabad Bank and their workmen, which was received by the Central Government on 29-7-1993.

[No. L-12012/125/91-IRB II]
V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer

In the matter of an industrial dispute under Section 10(1) (d) of the I. D. Act., 1947
Reference No. 12 of 1992

PARTIES :

Employers in relation to the management of Allahabad Bank Patna and their workmen

APPEARANCES :

On behalf of the workmen.—Shri B. Prasad authorised representative.

On behalf of the employers.—Shri Shrikant, Sr. Law Officer Allahabad Bank, Zonal Office, Patna.

STATE : Bihar.

INDUSTRY : Banking.

Dated, Dhanbad, the 22nd July, 1993

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10 (1) (d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12012/125/91-IR(B.II) dated the 13th March, 1992.

SCHEDULE

Whether the action of the management of Allahabad Bank in not posting Sh. Rajesh Kumar Sinha, Special Assistant to Patna Branch's justified ? If not, to what relief is the workman entitled ?

2. The action of the management has been challenged in not posting Shri R. K. Sinha, Special Assistant to Patna branch of Allahabad Bank. Admittedly the concerned workman joined the services in Allahabad Bank as Clerk on 24-8-76 at Bidupur branch of the said Bank. He was transferred to main branch Patna where he joined on 1-1-79. The concerned workman has filed W.S. and stated that the Asst. General Manager, Allahabad Bank called for an application from eligible candidates from the State of Bihar for filling up 73 posts of Special Assistant vide Circular dt. 26-12-89. In pursuance of the said circular the concerned workman also applied for the post of Special Assistant and he was called for interview. He has selected and in the seniority list his position was fixed at Sl. No. 30.

3. It is stated that the number of vacancies of the Special Assistant in all branches of Patna was 60.

But in the seniority list of the successful candidates who opted for posting at Patna the position of the concerned workman was at Sl. No. 70. The concerned workman had also opted for his posting at Patna along with others. As stated the concerned workman had to exercise his option at Patna for the reasons that he was holding the post of Dy. General Secretary of his union and also due to heart ailment of his father who was pacemaker. His mother was also not keeping well. Apart from that his wife was a teacher at Government Girls' High School.

4. In the meantime it so happened that the management circulated promotions of the clerks to the cadre of officers vide circular dt. 10-5-90. It is stated that one Shri Firoz Raja, Senior Clerk, who was also selected for special Assistant, got promotion as an Officer. Shri Raja had also exercised his option for his posting at Patna branch as Special Assistant. Immediately after his promotion the concerned workman again filed a representation for his posting at Patna branch on 21-5-90. But the management without considering the representation of the concerned workman issued order dt. 24-5-90 whereby all the successful candidates were posted at different branches. The concerned workman was posted at Simri branch in the district of Bhojpur. Similarly Shri Firoz Raja was posted at Patna University Branch.

5. Consequent upon the promotion of Shri Raja he withdrew his candidature from the post of Special Assistant vide letter dt. 22-5-90 which received by the management on 23-5-90. By the said letter he expressed his willingness to join as Officer. It was stated that consequent upon withdrawal of candidature by Shri Raja one vacancy of Special Assistant fell vacant at Patna University branch and the position of the concerned workman as per seniority came down to 16. Shri Raja was allowed to join as an Officer on 1-6-90. The concerned workman was ordered to join as Special Assistant to Simri branch on 1-6-90. In the W.S. it is further stated that consequent upon promotion of Shri Raja there remained two candidates senior to the concerned workman but they had already been posted at Patna in different branches only in the last week of May, 1990 and they were not eager to join at University branch nor they had represented for their posting there. In the circumstances there was a clear vacancy at university branch. The concerned workman stated in the W.S. that one post of Special Assistant is still lying vacant at University branch. Thus it was contended that the action of the management in not posting the concerned workman to Patna branch was illegal malafide and against the principles of natural justice. The case of the concerned workman was represented by the General Secretary of the Union also on 4-6-90. The concerned workman had again filed representation on 6-6-90 for his posting at University branch but the management did not evoke any response and ultimately an industrial dispute was raised giving rise to the present reference.

6. The management filed separate W.S. refusing all the claims of the concerned workman. It was stated that selection of Special Assistant was strictly made in accordance with the provision contained under the settlement dt. 22-4-89. The selection process in which Shri R. K. Sigha participated was strictly made according to the paragraph 8G of the said settlement

under Ext. M-10. It was stated that the settlement does not make any provision that option once exercised by a selected candidate can be withdrawn or modified before finalisation of the process. In the circumstances there cannot arise any vacancy in the university branch in the middle of the process which could have been offered to Shri Sinha. The name of Shri Raja could not have been excluded from the posting list violating the norms in the middle of the process. Accordingly Shri Raja was offered posting at Patna University branch and Shri Sinha at Simri branch. It was stated that Shri Raja accepted the offer of posting on 25-5-90 and again on 31-5-90 and the bank was not in a position to wait indefinitely for completion of the selection process for the post of Special Assistant. It was further stated that selection process for the post of Special Assistant within the clerical cadre and the promotion process from clerical cadre to officer cadre is not inter dependent rather exclusively independent to each other. Naturally no particular process can wait for be linked with the finalisation of other process. On these grounds it was stated that since there was no vacancy at university branch of the Allahabad Bank, the concerned workman was not entitled for his posting there or at any branch at Patna.

7. The question for consideration is as to whether the concerned workman was entitled to posted at university branch or any other branch at Patna?

8. Admittedly, the concerned workman was selected for the post of Special Assistant and in the seniority list his position was 30. Like others he too had exercised his option for posting to Patna branch. It is further admitted that in the seniority list of the successful candidates who opted for posting at Patna the position of the concerned workman was at Sl. No. 17. Admittedly the selection process was done strictly in accordance with the provision contained under the settlement dated 22-4-89. The selection process was very fair and so the union had to send the words of appreciation to the A.G.M., Allahabad Bank Zonal Office, Patna vide letter dt. 18-5-90 (Ext. M-11). The operative portion of the letter runs as follows :—

"We appreciate that till now your office has followed the rules for promotion, in the selection procedure, and hope that in the matter of posting also rules for promotion will be followed."

The union had appreciated the selection process and certainly by that time the posting was not finalised and the union hoped that in the matter of posting also the noble principles of fairness will be followed. It is also a fact admitted that one Shri Firoz Raja was selected for the post of Special Assistant who had exercised his option for posting at Patna but in the meantime he got promotion from the clerical cadre to officer cadre. Shri Raja consequent upon his promotion had withdrawn his candidature for the post of Special Assistant. The management has to say that in the memorandum of agreement dt. 22-4-89 there is no provision that option once exercised by the selected candidates can be withdrawn or modified before finalisation of the process. In other words once an employee participates in the selection process for the post of Special Assistant by appearing in the interview and if he is selected there is no provision in the settlement to withdraw his candidature in the

middle of the process. Naturally he will have to remain in the same position till the finalisation of the process. However, it was further asserted that it is open for the employees not to accept the offer of posting subsequently. All these facts have also been stated by the MW-1 in his evidence. The witness stated that Shri Firoze Raja filed an application on 22-5-90 withdrawing his option for the post of Special Assistant which was received in the office of the A.G.M. Patna on 23-5-90 (Ext. M-2).

9. I have myself perused the relevant provision of the settlement dated 22-4-90. It does not speak in so many words that once the option exercised by the selected candidate can not be withdrawn or modified till the finalisation of the process. I find that actually there is nothing like that. I may mention here that any settlement or the rules framed must be more beneficial to the employees and very smooth and elastic in nature and procedure so that it may be amended the modified for the betterment of the serving employees. Here I may refer to Ext. M-13 which is the letter dated 25-5-90 directing Shri Raja to join the duty of Special Assistant at Patna University branch by 11-6-90. The question is if he had already withdrawn his candidature from the post of Special Assistant on 22-5-90 then there was no meaning in issuing his letter again. Certainly it looks something very strange when Shri Raja by a letter dated 29-5-90 was directed to join as an officer on 1-6-90. I think the issuance of these two letters only at the interval of three to four days by the same management cannot be appreciated. Perhaps this action of the A.G.M., Zonal Office, Patna was not taken in good spirit vide Ext. M-5 and M-9. Further Shri R. K. Sinha was directed vide letter dated 1-6-90 to join the Special Assistant at Simri branch by 11-6-90 although he had never exercised any option for his posting at Simri branch. Definitely by 1-6-90 the post of Special Assistant at University branch had already been fallen vacant. I think Shri D. K. Paul, Chief Manager (JR) seemed to right in his approach while he mentioned in his letter under Ext. M-5 that since after withdrawal of option by Shri Firoze Raja it should have been cancelled and fresh list of eligible candidates for the post of Special Assistant should have been re-casted and action should have been taken accordingly. After withdrawal of candidate by Shri Raja and after issuance of letter dated 25-5-90 a post of Special Assistant at the University branch was definitely created and in my opinion the case of Shri Sinha ought to have been considered.

10. There is one more aspect of the matter which could not have been ignored. The wife of Shri Sinha is a teacher at Government Girls' High School, Patna and this fact has not been denied by the management. The Government was always been giving sympathetic consideration in the matter of posting of husband and wife at one place if both are working hands. MW-1 has stated that to his knowledge the post held by Shri Raja is still vacant. It may be mentioned here that Shri Firoze Raja was posted as Special Assistant at University branch, Patna. MW-2 has stated that he could not say the date from which the post of Special Assistant is lying vacant at University branch Patna. Admittedly there were in all 16 vacancies at different branches at Patna. It is also an admitted position that originally the position of the concerned workman for Patna posting was 17 in

the seniority list but after promotion of Shri Raja to Officer cadre his position came down to 16 and the concerned workman was thus within the available vacancies. He had also filed an application on 21-5-90 under (Ext. W-6) requesting the A.G.M. for his posting at Patna branch. The union had also filed a representation on 4-6-90 (Ext. W-7) for posting of the concerned workman at Patna. The concerned workman also again filed representation vide Ext. W-8. The concerned workman while stating his case as WW-1 has proved some other documents also and they have been marked exhibits in this reference. Ext. W-1 is the photocopy of the notification to fill up the post of Special Assistant. Ext. W-2 is the photo copy of the eligible candidates for the post of Special Assistant. Ext. W-3 is the interview letter and Ext. W-4 is the seniority list where the name of the concerned workman appears at Sl. No. 30. Ext. W-5 is the photo copy of the notification dt. 10-5-90 promoting clerks to the officer cadre. The name of Firoze Raja appears at Sl. No. 21.

11. I have carefully gone through the pleadings of the parties as also the evidence both oral and documentary and I am to hold the view that the concerned workman was entitled for his posting at Patna as Special Assistant. Apart from his seniority he had other favourable ground which should have been considered by the management. The management is thus directed to post the concerned workman Shri R. K. Sinha at any branch of Patna preferably at university branch of the Allahabad Bank within 2 months from the date of publication of the Award.

B. RAM, Presiding Officer.

नई दिल्ली, 30 जुलाई, 1993

का.आ. 1764 —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारतीय जीवन नीमा निगम के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकारण, अहमवाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-7-93 को प्राप्त हुआ था।

[मंस्ता एल-17012/20/91-आई आर बी-2)]

वी.के. वेणुगोपालन, डैस्क अधिकारी

New Delhi, the 30th July, 1993

S.O. 1764.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on 23.7.1993

[No. L-17012/20/91-IID II]
V. K. VENUGOPALAN, Desk Officer.

ANNEXURE

BEFORE SHRI H. R. KAMODIA, INDUSTRIAL TRIBUNAL, A'BAD

Ref. (ITC) No. 52 of 1991

ADJUDICATION

BETWEEN

Life Insurance Corporation of India, Ahmedabad.

AND

The workmen employed under it.

In the matter of the demand regarding reimbursement of medical expenses and granting special casual leave to Shri M. A. Chhatwani.

APPEARANCES :

Shri B. B. Vakil, Advocate, for the first party.
Shri R. B. Soni, representative for the second party.

AWARD

An Industrial dispute between the above-named parties has been referred for adjudication under section 10(1) of the I.D. Act, 1947 by the Desk Officer, Govt. of India, Ministry of Labour, New Delhi under his No. L-17012-20-91-IRB-2 dated 11. Subsequently under an appropriate order it has been transferred to this Tribunal for proper adjudication.

2. The industrial dispute relates to the question whether the action of Sr. Divisional Manager, Life Insurance Corporation of India, D.O. Ahmedabad in re-imbursement medical expenses and granting special casual leave to his workmen Shri M. A. Chhatwani, Asstt. is legal and justified? If not, to what relief is the concerned workman entitled?

3. Ex. 7 is the statement of claim filed by the second party. It has inter alia contended that on 19-1-1990 Shri M. A. Chhatwani was on recess and at that time he was bitten by one dog in the presence of Shri N. S. Panchwani. Immediately he reported this matter to the Branch Manager. He was required to take injunction and he was also required to remain on leave for 8 days and had applied for reimbursement of medical allowance of Rs. 1,022.50. His leave was not sanctioned and thus he sustained loss of Rs 1,500. Therefore he has prayed to direct the first party to give him Rs. 1,022.50 as medical reimbursement plus monetary loss sustained as a result of non-granting of special leave to him.

4. The first party has resisted the statement of claim of the second party by filing its written statement Ex. 16, wherein it has inter alia mentioned that the Corporation has issued a circular No. 3453/ASP/72 dated 5-10-1972 and had given instructions for dealing with the cases of the employees pertaining to Class-III and IV of the Corporation when they meet with the accident while on duty and sustain injury while on duty and/or in the course of the duty. It was contended that Shri Chhatwani was bitten by the dog during recess time on 19-1-1990. He has claimed some amount by way of reimburse-

ment, and also claimed 10 days as special leave for the period from 20-1-1990 to 29-1-1990. This accident has not taken place during the course of employment and hence he is not entitled to get reimbursement and/or special leave. Therefore it has prayed to dismiss the claim petition with cost.

5. The parties have not adduced any oral evidence. The parties have produced some documents. They rely on the same. I have heard the learned advocates of the parties and I have gone through the entire record of the case. The only short question that is required to be decided in this case is whether Shri Chhatwani was bitten by the dog during the course of employment or not. If he was bitten by the dog during the course of employment he was entitled to medical reimbursement besides special leave if any. It is an admitted fact that Shri Chhatwani was bitten by the dog at 2 p.m. on 19-1-1990. This was the recess time prescribed for the employees and Shri Chhatwani was enjoying recess time. The accident took place within the compound. There is no dispute as to the same and so the accident must be held to have been taken place within the compound. The only question for consideration is whether the accident can be said to have been taken place during the recess time or during the course of employment. Therefore the next question that is required to be decided is whether the recess time can be said to be employment time. In this connection let us refer to Ex. 23 which pertains to installation of electric bell on all the floors in "Jeevan Prakash", "Jeevan Prabha", "Oriental" and "Shanti Sadan" building. In this circular various timings are given. The office begins at 10.45 a.m. The office time is over at 5.30 p.m. Therefore the official time is from 10.45 a.m. to 5.30 p.m. During this entire time half an hour recess is given between 1.45 p.m. to 2.15 p.m. and during this time Chhatwani was bitten by a dog. Now this recess time is included within the office duty and therefore the recess time can be said to be part and parcel of duty hours. It cannot be said to be outside the duty hours. It cannot be urged that recess time should be duly excluded for the purpose of counting duty hours to be used by an employee for performing duties. The recess time is nothing but duty hours. The recess time given for lunch break so that it has got to be counted as duty hours and it is included in this circular as duty hours. Regulation 20 of the Life Insurance Corporation of India, 1960 says that "Unless in any case it be otherwise distinctly provided, the whole time of an employee shall be at the disposal of the Corporation and he shall serve the Corporation in its business in such capacity and at such place as he may, from time to time, be directed." Therefore the entire time is at the disposal of the Corporation. There is no dispute as to the same. Now 30 minutes time was prescribed by the employer and so the employee would be entitled to enjoy 30 minutes as recess time. It is not necessary that he has got to enjoy that time as recess time. He may in his discretion use it for discharge of duty. At the same time he may in his discretion use a part of it for recess time and remain for discharge of duty. In any case the entire recess time will have to be regarded as part and parcel of duty hours. It is not less than duty time. The fact remains that he was bitten by the dog during the course of employment. If he had not

come to the office on that day and if he had remained on leave he could not have been bitten by the dog. Therefore, the fact that he came to the office for discharge of duty was also responsible for the accident in question. In this connection a reference may be made to the case of 1989 (1) CLR at page 604, wherein a bus conductor died of heart attack during off-duty while he was sleeping in the bus. It was held that his death was during office hours and so compensation was given to him. Of course this case comes under Workmen's Compensation Act, 1923. Thereafter my attention was drawn to the case reported in 1989 (2) CLR at page 835, wherein a Jeep driver had taken Bank Officials to village in connection with recovery proceedings. Jeep driver rested the jeep at the rest house. He went to the market where he was assaulted by unknown persons. He died as a result of assault. It was held that there was causal connection between the accident and the employment of the workman by reason of the very fact that the workman was on duty of the Bank etc. but for his performing the duty of taking the Bank Officials in the Jeep at Rampur on that day, the accident could not have taken place. In other words, had he not been on duty of the Bank on that day and had he not taken the jeep anywhere, he would not have met with any accident much less a fatal one. This is also a case under the Workmen's Compensation Act, 1923. Anyway the fact conceded in this case would be applicable to the facts of the present case in order to decide whether the accident can be said to have been taken place during the course of employment. Then it will have to be held that Shri Chhatwani was bitten by a dog during office hours and in the course of his employment and so he would be entitled to reimbursement of the entire medical allowance. He had also claimed Rs. 1,500 as money value of the 7 days special leave which he had enjoyed during the accident in question. There is no evidence on record whether he was required to confine to bed for all the 7 days. It may be that he might have been required to confine himself to bed probably for 3 to 4 days. Therefore his claim for special leave for 7 days is not tenable. His claim for special leave for 3/4 days would be tenable and therefore he would be entitled to money value of the 4 days special leave which was not granted to him.

6. In the result I pass the following order.

ORDER

The reference is granted. The first party is directed to pay to Shri M. A. Chhatwani Rs. 1,022.50 by way of full medical reimbursement on account of the fact that he was bitten by the dog on 19-1-90. At the rate of one day's pay and D.A. to be calculated in the month of January, 1990, Shri Chhatwani shall be entitled to monetary loss sustained by him for 4 days for refusal to grant special leave to him. Parties are directed to bear their own cost.

Sd/-

H. R. KAMODIA, Industrial Tribunal
Ahmedabad. 2nd July, 1993.

नई दिल्ली, 30 जुलाई, 1993

का.आ. 1706 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, नन्दीय सरकार, यूनाइटेड इंडिया इन्स्योरेन्स कं.नि., के प्रदर्शनय के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविल औद्योगिक विवाद में औद्योगिक अधिकारण, सदास के पंचपट को प्रकाशित करती है, जो नन्दीय सरकार 26-7-93 को प्राप्त हुआ था।

[संख्या एल-17012/42/91 आई आर वी 2)]

वा.के. वेणुगोपालन, ईस.र अधिकारी

New Delhi, the 30th July, 1993

S.O. 1705.—In pursuance of Sec. 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Madras as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of United India Insurance Co. Ltd., and their workmen, which was received by the Central Government on 26-7-1993.

[No. L-17012/42/91-IRB-II]

v. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL. TAMILNADU, MADRAS

Wednesday, the 14th day of July, 1993

PRESENT :

Thiru K. Sampath Kumaran, B.A.B.L, Industrial Tribunal

INDUSTRIAL DISPUTE NO. 1 OF 1992

(In the matter of the Dispute for adjudication under Section 10(1) (d) of the Industrial Disputes Act, 1947 between the workmen and the Management of United India Insurance Company Limited, Coimbatore).

BETWEEN

The workman Represented by The Regional Secretary, Tamil Nadu General Insurance Employees' Association, Coimbatore Region, M.R. Complex, 51, D.B. Road, II Floor, R.S. Putam, Coimbatore-641 002.

AND

The Regional Manager, United India Insurance Co. Ltd., 1087, Avinashl Road, Parpanai-ckappaleyam, COIMBATORE-641037.

REFERENCE :

Order No. L-17012/42/91-IRB. II dated 31-12-1991, Ministry of Labour, Government of India, New Delhi.

This dispute coming on this day for final disposal in the presence of Thiru G. V. Udaykumar, Advocate appearing for the Management upon perusing the reference, claim and Counter Statement, and other connected papers on record and the parties having filed a joint memo of compromise, this Tribunal passed the following.

AWARD

This dispute between the workmen and the Management of United India Insurance Co. Ltd., Coimbatore arises out of a reference under Section 10(1) (d) of the Industrial Disputes Act, 1947 of the Government of India, in its Order No. L-17012/42/91-JRB II, dated 31-12-1991 of the Ministry of Labour, for adjudication of the following issue :

"Whether the Management of United India Insurance Co. Ltd. is justified in terminating the services of Sh. B. Krishnaraj, part-time employee with effect from 5-10-1983 ? If not, to what relief is the concerned workman entitled ?"

Petitioner workman filed a claim statement putting forth his claims. The Respondent Management filed its counter statement denying the allegations made in the claim statement.

On 23-6-1993, the Counsel for the Respondent Management has filed a memo of compromise between parties

Today, when the dispute is called, both parties were present. Petitioner-workman Thiru B. Krishnaraj is examined as W.W. 1. Thiru B. S.T. Shah, the Administrative Officer is examined as M.W. 1. Joint memo of compromise is marked as Ex. M 1. Heard arguments. It is seen from the Exhibit M1 that the parties have settled as between themselves, by which the Respondent has agreed to take the petitioner as a new entrant in the same post for which the petitioner has agreed. The petitioner has also agreed that he will not be entitled to back wages and other consequential benefits. Hence an award is passed in terms of the Joint Memo of compromise filed by the parties accordingly. No Costs.

Dated, this 14th day of July, 1993

Sd/-

INDUSTRIAL TRIBUNAL

MEMO OF COMPROMISE FILED BY THE PARTIES

Both the parties state that the above dispute has been compromised on the following terms.

1. The Respondent Management agrees to reinstate Shri B. Krishnaraj as a part-time employee (Sweeper).

2. The reinstatement of service as above shall be with prospective effect.
3. It is mutually agreed by both the parties that there shall be no payment of back wages.

In view of the above, both the parties hereby agree to file this compromise before the Industrial Tribunal and pray for an award on the above mentioned terms.

(Sd/-)

Regional Manager
For United India Insurance Co. Ltd.,

RESPONDENT

(Sd/-)

B. KRISHNARAJ
PETITIONER 15-4-1993.

Sd/-

INDUSTRIAL TRIBUNAL

WITNESSES EXAMINED

For Workman :

W.W. 1 : Thiru B. Krishnaraj (Petitioner-workman).

For Management :

M.W. 1 : Thiru B. S.T. Shah.

DOCUMENTS MARKED

For Workman : Nil.

For Management :

Ex. M. 1/15-4-93 : Memo of compromise between parties.

Sd/-

THIRU K. SAMPATH KUMARAN,

नई दिल्ली, 30 जुलाई, 1993

का आ. 1766—श्रीरामपुर विधान अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्ययन में, कैसीय सरकार, ईक प्राक वड़ीया के प्रबन्धालय के अंदर फिल्मों और उनके कम्पनियों के बीच अनुवंश में निर्दिष्ट श्रीरामपुर विधान में कैसीय सरकार श्रीरामपुर विधान, नं. 2, यूरोपी, के प्रबन्ध द्वारा प्रकाशित करती है, जो कैसीय सरकार को 26-7-93 की पारा हुआ है।

[मंदिरा एल-12012/31/92-बी-2(प)]

वी.के. वेणुगोपलन, ईक अधिकारी

New Delhi, the 30th July, 1993

S.O. 1766.—In pursuance of Sec. 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 26-7-1993.

[No. L-12012/31/92-JRB-III]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, BOMBAY
PRESENT :

Shri P. D. Apshankar, Presiding Officer
Reference No. CGIT-2/39 of 1992

PARTIES

Employers in relation to the Management of
Bank of Baroda.

AND

Their Workmen.

APPEARANCES :

For the Employers : (1) Mr. S. K. Talsania,
Advocate; (2) Mr. P. R. Kulkarni, Repre-
sentative.

For the Workmen : Mr. M. G. Satavalekar,
Representative.

INDUSTRY : Banking

STATE : Maharashtra.
Bombay, dated the 19th July, 1993

AWARD

The Central Government by their Order No.
L-12012/31/92-IR(B-II) dated 24-6-1992 have re-
ferred the following industrial dispute to this Tribunal

for adjudication under Section 10(1)(d) of the Indu-
strial Disputes Act, 1947.

"Whether the action of the Management of Bank
of Baroda in relation to its Wadia College
Branch, Pune, in recovering the cash short-
age of Rs. 2,700 on 27-9-1990 from Shri
D. T. Kulkarni, Cashier, is justified ? If not,
what relief the workman is entitled to ?"

2. The General Secretary of the All India Bank
of Baroda Employees' Union filed the necessary State-
ment of Claim (W-2) challenging the said action of
the Bank Management.

3. The Bank filed their necessary Written Statement
(Ex. M-3).

4. Thereafter, while the reference was at the fur-
ther stage, the Senior Manager (P) of the Bank filed
an application (Ex. M-4) dated 9-6-1993 stating that
the Bank does not intend to recover the sum of
Rs. 2,700 which is the subject matter of the dispute
from Shri D. T. Kulkarni, and as such the reference
may be disposed of. The Senior Manager then made
a further endorsement on that application that the
Bank has no allegation against that workman relating
to the said amount. In view of the said statement
made on behalf of the Bank Management, the Union
Representative made a statement below the said
application that as the Bank has no allegation against
the workman, the Union agrees to close the case.
Therefore, as both the parties stated that the matter
be closed, in view of the said statements made by
both the parties, the present reference stands dis-
posed of. Both the parties to bear their own costs
of this Reference.

P. D. APSHANKAR, Presiding Officer
19th July, 1993.